

EXHIBIT J

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X

4 ERIC EDWARDS, individually and on behalf
5 of all other persons similarly situated,

6 PLAINTIFFS,

7 -against-

8 Case No.:
9 3134cv08
10 (ECF) (DLC)

11 THE DEPARTMENT OF CORRECTIONS OF
12 THE CITY OF NEW YORK and THE CITY OF NEW YORK,

13 DEFENDANTS.

14 -----X

15 DATE: December 13, 2010

16 TIME: 2:30 p.m.

17 DEPOSITION of the Plaintiff, MARILYN STEELE, taken by
18 the Defendants, pursuant to a Court Order and to the
19 Federal Rules of Civil Procedure, held at the office of
20 Special Federal Litigation, New York City Law Department,
21 100 Church Street, New York, New York 10007, before a
22 Notary Public of the State of New York.
23
24
25

M. STEELE

1 Q. You're a member of a union, correct?

2 A. Yes.

3 Q. What union is that?

4 A. CLBA.

5 Q. Have you ever been a union rep?

6 A. No.

7 Q. When you first came back to DOC in 2000 or
8 2001, when you were first reinstated, that was as a
9 Corrections Officer?

10 A. Yes.

11 Q. What facility were you first assigned to?

12 A. When I first came on the job?

13 Q. We'll start from 2000 to 2001, from your
14 reinstatement.

15 A. I came to Queens Courts.

16 Q. And when you retired in 2010, where were
17 you assigned?

18 A. I was assigned at Queens Courts.

19 Q. So you were assigned to Queens Courts from
20 2000 up until your retirement?

21 A. I worked between Queens Courts until they
22 changed it from Queens Courts to Queens Complex.

23 The agreement of the lawsuit was, I was to return to
24 work in Queens Courts, but I worked also, they would
25 put me on schedule to work in the House, as well as

M. STEELE

1 Q. Around 2006 you had this steady tour of
2 7:00 to 3:31?

3 A. Right. But I also worked overtime.

4 Q. That was your scheduled tour?

5 A. Right. That's my scheduled tour.

6 Q. What were your regular days off?

7 A. Saturday, Sunday.

8 Q. Saturday, Sunday, okay?

9 A. Not for this whole time period. Before I
10 got the steady post, I was off on Friday, Saturday.

11 Q. So, from around 2001 to 2006 you were
12 Friday, Saturday?

13 A. Right.

14 Q. And you had this, kind of rotating
15 schedule?

16 A. Right.

17 Q. You worked all of those tours; the nine to
18 five, ten to six, eight to four?

19 A. I worked all of them, yes.

20 Q. Would the job duties change depending upon
21 what tour you were working?

22 A. Yes.

23 Q. Okay. We'll go through those. At the
24 time you retired in 2001, who was your direct
25 supervisor?

M. STEELE

1 gate, show your ID and get buzzed in through the
2 gate. And, depending on what lazy officer was on
3 duty, took their time, you may be out there buzzing
4 for 10, 15 minutes sometimes, to get in.

5 Q. To get into the facility?

6 A. Right.

7 Q. How long, other than when these lazy
8 officers were working --

9 A. Five minutes or less.

10 Q. Just let me finish the question.

11 A. Sorry.

12 Q. No problem. You would be waiting outside
13 the facility to get buzzed in?

14 A. Uh-huh.

15 Q. What would happen next, after you got
16 buzzed in?

17 A. You come up the stairs, you show your ID,
18 and then they buzz you through the other gate.

19 Q. There's another internal gate you get
20 buzzed through?

21 A. Yes.

22 Q. What happened next?

23 A. You go to your locker room and you go into
24 your locker room, open your locker, start changing
25 your clothes and getting your equipment and

M. STEELE

1 everything you need on before roll call. And once
2 you get dressed, then you have to come out and go
3 back to the control room to get your equipment you
4 need for your area. You have to go get your OC,
5 your keys, if you need, like, another logbook, or
6 you need 239s, some forms to fill out because you
7 could have court directs, it depends.

8 Q. Okay. I'm going to back you up for a
9 second. You would, after you got buzzed into that
10 second internal gate, then you said you would go to
11 the locker room. Would you always change into your
12 uniform at the facility?

13 A. Yes.

14 Q. Was there ever a time when you would come
15 dressed in your uniform?

16 A. Not me.

17 Q. Would you bring your uniform with you
18 every day?

19 A. No. I usually bring four or five clean
20 things at the beginning of the week.

21 Q. And you would just leave those in your
22 locker for the week?

23 A. Right.

24 Q. Describe to me the uniform that you would
25 put on.

M. STEELE

1 whatever the situation.

2 Q. So, then, you'd go to the locker room.

3 And what would you do once you got to the locker
4 room?

5 A. Get my washcloth and soap out, and wash my
6 face and up to my elbows, and then change clothes
7 and use the bathroom, whatever.

8 Q. I'm assuming it would be the same process
9 that you described before of putting on, taking
10 everything off again?

11 A. Yes.

12 Q. And how long would you say would it take
13 you to take off your equipment?

14 A. I would be in there 25 minutes before I
15 come out of locker room. Because it's not just
16 taking everything off, you have to put things back
17 in order and place. Like I said, the locker room is
18 just so big, there's two little chairs in there and
19 if someone is utilizing one, then you have to put
20 things in order. I have to hang things up and put
21 things back and take dirty things with me. It
22 depends on who was in there.

23 Q. Twenty-five minutes you say was the
24 average?

25 A. Yeah, in the locker room.

M. STEELE

1 or whatever. Because, all the time you can't call
2 and talk to the same captains, because they would
3 act crazy if you're running late. I'm just a person
4 of courtesy, if I'm running late I would call. And
5 there's been times I called, and like, "Did you get
6 my message? No, I didn't get the message." So
7 other than calling the control room I would ask, "Do
8 you have a number I can just reach you?" I would do
9 that as a backup.

10 Q. What would the captain say about wearing
11 any of the DOC uniform when you were off duty?

12 A. No. They would tell you it's not wise
13 because of situations that have happened. A lot of
14 people didn't carry off-duty firearms, and people
15 see you in uniform, they think you're police, and
16 you had officers that situations took place that
17 didn't do anything and they had reports of that and
18 they have your name and your shield and ID.

19 Q. What do you mean?

20 A. One time an officer was in a store on a
21 lunch break but they were in full uniform, and I
22 think the store got robbed or something. And, of
23 course, the officer's obligation was to call 911. I
24 don't know everything that took place with it, but
25 the officer didn't do what was supposed to be done,

M. STEELE

1 tour ended, or half an hour after your tour ended.

2 A. Right.

3 Q. For that half an hour, would you put in a
4 request for overtime pay?

5 MR. RAND: Objection.

6 A. Sometimes I did.

7 Q. Okay. Go ahead, finish.

8 A. Sometimes I did, sometimes we just didn't
9 because there has been times where, especially if
10 someone kind of like, "Oh, come on. You know he
11 gets here late, his kids, or whatever the situation
12 is. Come on, you know, this person will cover for
13 you, don't worry about it, or, I'll let you,
14 everything will run smoothly tomorrow. You can
15 leave like that time, earlier." Things of that
16 nature have been said.

17 Q. Would there be times when you would put in
18 an overtime slip for that, let's just say, half
19 hour?

20 A. Yeah.

21 Q. And why would you put in a slip on those
22 times?

23 A. Because you worked it.

24 Q. Would it be the times when you wouldn't
25 put in a slip, would that be the times, like you

M. STEELE

1 A. Yeah.

2 Q. Would you make any notation in the sign-in
3 and out book that you had worked overtime?

4 MR. RAND: Objection.

5 A. Yes.

6 Q. Okay. And what would that notation be?

7 A. Other than the overtime slip, I would sign
8 out, it would be 0700, if that's the time I came in.
9 Then, if it's 5:31, I would put 5:31 on there and I
10 would write a little "OT." And when the person,
11 whoever's doing the overtime, they would check the
12 sheets to see if there was an overtime slip for that
13 time period I'm stating I worked overtime.

14 Q. So, somebody would compare the overtime
15 slip that you submitted with your sign-out sheet?

16 A. Yes.

17 Q. Were there ever instances, and once again,
18 2006 to 2010, where you worked overtime but didn't
19 submit an overtime slip?

20 A. Yeah.

21 Q. Why would you work overtime and not submit
22 an overtime slip?

23 A. If it's a short time period, depending on
24 the situation at hand, then I would just let it go,
25 especially if I forgot. Sometimes I would get out

M. STEELE

1 to the car, I would go, "Oh man, I forgot." That 15
2 minutes adds up. Or sometimes, if I forgot, even
3 the following day when I went to put it in, people
4 have amnesia. "Oh, I don't remember you staying."
5 I'm not going to fight with you over 15 minutes, so
6 a lot of the time you just eat it, you just let it
7 go. A lot of time, my overtime, 15 minutes, if I
8 did put it in, I would put in for comp time, I
9 wouldn't put it in for money, anyhow.

10 Q. On your overtime slip, can you choose cash
11 or comp?

12 A. Yes.

13 Q. If it was less than a certain amount of
14 time you would typically pick comp?

15 A. Yes.

16 Q. Now, I want to talk a little bit about
17 your, I don't know if you call it a lunch break or a
18 duty free; I don't know which you call it?

19 A. Meal break.

20 Q. Meal break, okay. Again looking from 2006
21 until 2010, did you have a specific time that was
22 supposed to be your meal break?

23 A. Yes.

24 Q. What time was that?

25 A. Twelve.

M. STEELE

1 A. Meaning that you weren't on straight time
2 any further.

3 Q. You would get paid?

4 A. You would have to fill out this voucher
5 thing to say it was an evening tour. If you were
6 past six o'clock, then you were allotted this
7 voucher. Other than that, you didn't get paid for
8 your meal, in the sense of you filling out and they
9 would reimburse you.

10 Q. Oh, no, I don't mean reimbursement. I
11 just mean straight salary, you were paid for that?

12 A. Yes, yes.

13 Q. I don't mean getting paid for your actual
14 meal that you ate. Meaning that you were paid in
15 salary for that time frame?

16 A. Yes, yes.

17 Q. On those days when you had the ordered
18 overtime, where they knew somebody was going to be
19 late and you were instructed that you had to stay,
20 who would typically give you that directive?

21 A. What do you mean, "that directive"?

22 Q. Would that come from a captain, who would
23 that come from?

24 MR. RAND: Objection.

25 A. A captain, yes.

EXHIBIT K

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
2 -----X
ERIC EDWARDS, Individually and on Behalf
3 of All Other Persons Similarly Situated,
4 PLAINTIFF,
5
6 -against- Case No.
2008cv3134-ECF
7 THE DEPARTMENT OF CORRECTIONS OF THE CITY OF
NEW YORK and THE CITY OF NEW YORK,
8
9 DEFENDANT.
-----X

10 Date: December 20, 2010

11 Time: 10:20 a.m.

12

13

14 DEPOSITION of the Plaintiff, RENALDO COLON,
15 taken by the Defendants, pursuant to a Notice and to the
16 Federal Rules of Civil Procedure, held at the office of
17 Special Federal Litigation, New York City Law Department,
18 100 Church Street, 4th Floor, New York, New York 10007,
19 before Jeff Desnick, a Notary Public of the State of
20 New York.

21

22

23

24

25

R. COLON

1 A. Yes.

2 Q. Besides 8:00 to 4:00 and 7:00 to 3:00 did you
3 ever work a different tour?

4 A. Yes. My first three years I think I had rotating
5 tour.

6 Q. And what do you mean by rotating tour?

7 A. Every four days your shift would change. You
8 have 11:00 p.m. to seven in the morning, you have 3:00 p.m.
9 to 11:00 p.m., you have 7:00 a.m. to 3:00 p.m.

10 Q. Okay. What are your current regular days off?

11 A. Saturday and Sunday.

12 Q. How long have you had Saturday and Sunday off as
13 your regular days?

14 A. For the last year, approximately.

15 Q. And prior to, let's say 2009, what were your
16 regular days off?

17 A. I had a four and two rotation, so four days on,
18 two days off.

19 Q. And was that your rotation from the time you
20 began your employment with DOC until approximately last
21 year?

22 A. Yes.

23 Q. Who is your direct supervisor currently?

24 A. We just lost our supervisor, so it changes day to
25 day.

R. COLON

1 escape, things of that nature.

2 Make sure they don't fight, cause damage to each
3 other or themselves or the institution or staff. I guess
4 that goes with control also.

5 Make sure they're there for court.

6 Q. And with respect to your duties at AMKC, is there
7 anything specific about that facility that you have duties
8 and responsibilities for?

9 MR. RAND: Objection.

10 THE WITNESS: Mental observation inmates,
11 detox inmates.

12 Q. Okay. What do you mean by mental observation
13 inmates?

14 A. Inmates with a mental history, they're on psyche
15 meds, medications and stuff.

16 Q. Are male inmates at Riker's Island with mental
17 histories sent specifically to AMKC?

18 A. I believe there's a couple of buildings that deal
19 with that.

20 Q. And AMKC is one of them?

21 A. Yes.

22 Q. And when you mention detox inmates, could you
23 explain what you mean by that?

24 A. They come in with kinds of habits, drugs, drug
25 habits.

R. COLON

1 next?

2 A. You have to clear the magnetometers, like you
3 were catching a plane. You remove the metal, slide it
4 through the conveyor belt thing.

5 Q. How many magnetometers are there?

6 A. At the front entrance, one.

7 Q. Does everyone entering AMKC have to go through
8 the magnetometer?

9 A. Yes.

10 Q. Including the warden?

11 A. Yes.

12 Q. And how long does it take you to go through the
13 magnetometer?

14 A. That's another thing, depends how many people are
15 there. Anywhere from 5, 10, 15 minutes.

16 Q. And what do you do after you clear the
17 magnetometer?

18 A. You pick up all your stuff and step into the
19 building.

20 Q. Do you arrive at AMKC in your uniform?

21 A. No.

22 Q. Why not?

23 A. That's definitely a no-no. Especially if you
24 live in the city, travel in the city.

25 Q. Why do you say that's a no-no?

R. COLON

1 A. It's like a safety issue, put out like a warning
2 light basically.

3 Q. Who put out a warning?

4 A. Exactly who I don't know. They were saying --
5 there was word the gang members and stuff can identify --
6 actually I don't remember if it was something the
7 department put out or the union put out. We got a little
8 flyer.

9 Q. Was the flyer posted or otherwise distributed?

10 A. I believe it was handed out. I can't remember
11 whether it was posted or not.

12 Q. When was this?

13 A. I would say within the last year. But I was
14 aware of that long before they posted that.

15 Q. Okay. Do you wear a uniform for your job?

16 A. Yes.

17 Q. Do you change into your uniform at AMKC?

18 A. Yes.

19 Q. Other than this flyer or warning you were just
20 mentioning, did anyone tell you not to wear your uniform
21 outside the facility?

22 A. No.

23 Q. All right. What do you do after you gather up
24 your stuff and enter the building?

25 A. I go into the locker room.

R. COLON

1 Q. On a typical morning how long does it take you to
2 prepare your utility belt and put it on?

3 A. Few minutes. Two, three, four minutes.

4 Q. What do you do after you -- fully in uniform and
5 probably equipped, what do you do next?

6 A. Report to the captain, sign in.

7 Q. You report to the captain and then you sign in?

8 A. You sign in first.

9 Q. Okay. So when you leave the locker room where do
10 you go to sign in?

11 A. Down the hall. It's hard to describe. You're
12 walking out the locker room, down the corridor, the sign in
13 sheets there.

14 Q. Are the sign in sheets located in the office --?

15 A. In the corridor, I would say between the front
16 gate and the control room.

17 Q. And when you sign in, can you explain that
18 process to me?

19 A. Sign your name, time. They say you're supposed
20 to sign your name when you first enter the building and
21 then go change.

22 Q. Who is they?

23 A. Well, that's how it's supposed to be done on --
24 I believe it's in writing.

25 But myself, since the locker room is closer to

R. COLON

1 the front gate than the sign in sheet, I go change first
2 and then go sign in, then I report to the control room.

3 Q. First of all, is your name already printed on the
4 sign in sheet?

5 A. Yes.

6 Q. Okay. So you find a row that has your name on
7 it?

8 A. Right. And you sign along it.

9 Q. Do you sign in for the time that you -- the time
10 it actually is when you arrive at the time in log --?

11 A. Right.

12 Q. -- sign in the time that you actually drove into
13 AMKC or something else?

14 MR. RAND: Objection.

15 THE WITNESS: Well, usually I sign in the
16 time that I have to sign in.

17 Q. So for example, if it's 7:55 when you arrive at
18 the sign in sheet, you put 7:55 on the sign in sheet?

19 A. Yes.

20 Q. What do you do after you sign in?

21 A. Report to the control room captain.

22 Q. Have you yet to go through that next locked door
23 that you talked about before?

24 A. No.

25 Q. So you report to the control room captain before

R. COLON

1 time you got to your post and the outgoing corrections
2 officer left his or her post?

3 A. I'm sorry?

4 Q. Would you have any conversation with the officer
5 you were relieving --?

6 A. Yes. They would let us know what was going on,
7 as far as what to expect coming in from other buildings,
8 how many new admissions we were tracking, how we were doing
9 with bed space, if there were any particular extra moves
10 that had to be made, things like that.

11 Q. How long would you typically talk to the officer
12 you were relieving?

13 A. Five, ten minutes.

14 Q. Is there anything else you would do when you
15 would relieve an officer, fill out paperwork, sign in a
16 book, anything like that?

17 MR. RAND: Objection.

18 THE WITNESS: Not that I recall.

19 Q. Do you sign any log book when you arrive at your
20 post in the morning?

21 A. Yes, there's a log book at the front door.

22 Q. And when you say front door, is that at movement
23 control?

24 A. Actually, the door is the entrance to the general
25 office, and you have to step through the general office to

R. COLON

1 get to the movement control office.

2 Q. So what do you sign in that book?

3 A. The beginning of the tour, your name.

4 Q. Do you know what the purpose of that sign in is?

5 A. To keep a log, everyone coming in out of the
6 area.

7 Q. Did you say you put your name in?

8 A. At the beginning of the tour, yes. You call sign
9 in -- if I'm signing in under a 7:00 to 3:00 tour, we all
10 sign 0700 entry.

11 Q. So even if you didn't get to the movement office
12 until 7:15, you would still sign in --?

13 A. 7:00, correct.

14 Q. Why would you do that?

15 A. Because it was one big entry where it would have
16 the names of all of those working the area, so basically
17 just fill in the line with your name.

18 Q. Before you worked in the movement control office
19 would you sign in a log book when you got to your post?

20 A. Yes.

21 Q. If you worked in one of the clinics, let's say,
22 would you sign --?

23 A. Whatever post you worked, you get there, you sign
24 in the post. You open up the book, the tour, sign in the
25 equipment, your name and everything.

R. COLON

1 A. You're talking about the log book for us or the
2 sign in sheets?

3 Q. The general log?

4 A. Right, I do that first. Because I'm going into
5 the office to pull all the paperwork.

6 Q. And then what do you do?

7 A. Then I go into the locker room.

8 Q. Okay. When you work 8:00 to 4:00 approximately
9 what time do you get to the locker room to change to go
10 home?

11 A. I would say about 4:35 to 4:40.

12 Q. And what do you do in the locker room?

13 A. Go in there, take a big exhale, then I go about
14 taking my uniform off.

15 Q. And how long does it take you to change?

16 A. That might be a little longer, now there's no
17 rush, nobody waiting for me. So I'm not on the clock, so
18 to speak -- you know, slow.

19 Q. So average time?

20 A. 15 minutes at least.

21 Q. And what would be on the long end of it?

22 A. I would say 20 to 25 minutes.

23 Q. What do you take off?

24 A. Everything, uniform, the utility belt, the socks,
25 the shirt, the T-shirt.

R. COLON

1 Q. And you store all of that in your locker?

2 A. Yes.

3 MS. CARPENTER: Off the record (Whereupon, a
4 short recess was taken.

5 Q. When you're changing at the end of your tour how
6 long does it take you to take your vest off, just your
7 vest?

8 A. Few minutes. About the same as going on.

9 Q. And then do you sign out on the sign out sheet
10 before leaving?

11 A. Usually I'll sign out on the way out, when I'm
12 going to the office, so I don't have to double back.

13 Q. So when do you sign out in the process of the end
14 of your tour?

15 A. After I turn in the gas, I'm heading back towards
16 the office, where the log book is, as I pass the sign off
17 sheets I sign out there, so when I'm done changing I don't
18 have to come back.

19 Q. And when you sign out what time do you sign out
20 for?

21 A. Usually the end of tour, 1631, 1531, whatever the
22 end of tour is.

23 Q. And is it your understanding that you do in fact
24 get paid for your lunch?

25 A. Yes, I do.

R. COLON

1 Q. Who generally assigns overtime?

2 A. Overtime is generally assigned by the control
3 room captain. Sometimes by personnel when they're
4 anticipating overtime.

5 Q. Do you know when overtime is anticipated?

6 A. I can't tell -- usually around holidays, like
7 that, when they're expecting a lot of bang ins, so they'll
8 schedule some people for overtime.

9 Q. Can you explain what you mean by bang ins?

10 A. When they call in sick, officers call in sick.

11 Q. Is there a difference between mandatory and
12 ordered overtime and voluntary overtime?

13 A. Mandatory is you're scheduled for overtime
14 whether you want it or not. The voluntary is that, you
15 volunteer.

16 Q. Have you ever volunteered to do overtime?

17 A. Yes.

18 Q. Do you volunteer on a particular day or do you
19 just let it be known, I volunteer for overtime; or how does
20 it work?

21 A. Usually as a particular day -- like I'll try to
22 volunteer on the first day of the week and last day of the
23 week, Monday and Friday. Obviously if I don't get a
24 Monday, then I'll try Tuesday. If I do get Monday, I go to
25 Friday, the last day. I try to set myself a schedule.

R. COLON

1 Q. And what do you do with the slip once it's filled
2 out?

3 A. Hand it into the control room.

4 Q. What's the minimum amount of time that you would
5 fill out an overtime slip for?

6 A. Minimum?

7 Q. Yes.

8 A. Half hour.

9 Q. Why is that the minimum time you fill out an
10 overtime slip?

11 A. Anything shorter than that you just get laughed
12 at.

13 Q. Did anyone ever tell you not to submit an
14 overtime slip for less than 30 minutes?

15 A. I wasn't never told, I was more like advised,
16 don't bother, that type of thing.

17 Q. Who advised you?

18 A. Fellow officers, the captain saying it also a
19 while back.

20 Q. What captain?

21 A. I can't recall a particular captain.

22 Q. How do you receive compensation after working
23 overtime; is there anything else you have to do after
24 handing in the time slip?

25 A. To get paid overtime, that's it.

R. COLON

1 A. Right.

2 Q. Do you know the last time you requested to be
3 paid in comp time?

4 A. No, it's been that long ago.

5 But I can tell you a time ago that I didn't get a
6 meal period. You don't get a meal period they vouch you 40
7 minutes comp time slip. That's probably the only time I
8 did comp.

9 Q. Do you put in requests for overtime when you
10 don't take your meal?

11 MR. RAND: Objection.

12 THE WITNESS: You're talking about during
13 the regular day?

14 Q. Correct.

15 A. No.

16 Q. Why is that?

17 MR. RAND: Objection.

18 THE WITNESS: Basically the way -- you get a
19 meal if you want to, they're not stopping you,
20 that type thing, you know.

21 Q. When you work overtime for cash when do you
22 receive payment for the time worked?

23 A. Within the next pay period or so. It's probably
24 like two weeks off, something like that.

25 Q. How often do you receive a paycheck for your

EXHIBIT L

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----X

ERIC EDWARDS, individually and on Behalf of All Other
3 Persons Similarly Situated,

4 PLAINTIFFS,

5

-against-

Case No:

6

ECF 2008

Civ: 3134 (DLC)

7

8 THE DEPARTMENT OF CORRECTIONS OF THE CITY OF NEW YORK and
THE CITY OF NEW YORK,

9

DEFENDANTS.

10 -----X

11

12

DATE: February 3, 2011

13

TIME: 2:40 p.m.

14

15

16

17

DEPOSITION of the Opt-In Plaintiff,

18

DARLENE SANDERS, taken by the Defendants, pursuant to a

19

Court Order and to the Federal Rules of Civil Procedure,

20

held at the offices of New York City Law Department, 100

21

Church Street, New York, New York 10007, before Josette

22

Correa, a Notary Public of the State of New York.

23

24

25

D. SANDERS

1 Q. You don't remember?

2 A. No, because the post goes up and then you just
3 apply for them.

4 Q. Do you remember approximately the amount of time
5 from between when you put in for the tour and when you got
6 the tour?

7 A. No. Like, the post could be put up today and it
8 may not be offered to you for six months to a year later,
9 so I really can't tell you when I applied for it.

10 Q. I understand. I am just asking if you remember.
11 So you have been on the Midnight tour from sometime in
12 2007?

13 A. That is correct.

14 Q. Do you remember when specifically in 2007, what
15 month?

16 A. Probably somewhere in June.

17 Q. Do you currently have regular days off?

18 A. We work four days on and two days off.

19 Q. Is that called a four and two?

20 A. Four and two, yes.

21 Q. Have you always had that schedule since you have
22 been employed by DOC?

23 A. Yes.

24 Q. Do you have a direct supervisor?

25 A. No.

D. SANDERS

1 Q. Is it connected to Queens by bridge?

2 A. Well, it is in Queens, Rikers Island is in
3 Queens.

4 Q. How is it connected to the rest of the borough?

5 A. There is a bridge going from the part of Queens
6 to the island.

7 Q. Is it just one bridge?

8 A. One bridge, yes.

9 Q. Does that bridge have a name?

10 A. Bridge. It probably is, but that's what it's
11 called, the bridge.

12 Q. Do you, as a Correction officer, wear a uniform?

13 A. As a Correction officer, on the job, yes.

14 Q. Do you arrive at RNDC in your uniform?

15 A. No.

16 Q. Why not?

17 A. It's not safe.

18 Q. Why do you say that?

19 A. It is just not safe. People don't like
20 Correction officers, so you don't wear your clothes in.

21 Now, there is people, at some point, and not me, have
22 gotten hurt wearing their uniform, coming into work with.

23 Q. Did anyone ever tell you not to wear your uniform
24 outside the facility?

25 A. Yeah, we are told in the academy not to wear your

D. SANDERS

1 uniform. It's not part of the rules and regs, but, yeah,
2 it's noted that it is not safe for you to wear your
3 uniform.

4 Q. Who told you that?

5 A. Part of the lessons, you know, when they talk,
6 they tell you how many people have gotten hurt wearing
7 their uniform to work, home, on the train.

8 Q. Have you ever worn your uniform to work?

9 A. Probably when I was started, yes.

10 Q. How many times do you think you wore your uniform
11 to work?

12 A. I never wore my full uniform, I probably, if
13 anything, I would wear my pants. I never ever came in full
14 uniform.

15 Q. How many times did you wear your pants to work?

16 A. I would say probably, maybe, five times.

17 Q. And when was this?

18 A. More of the winter months. Never in the summer,
19 never in the summer; winter months.

20 Q. How long ago?

21 A. Probably when we had the heavy, heavy snowstorm.
22 Yeah, this year.

23 Q. We have had a lot of snowstorms this year.

24 A. But that first one.

25 Q. Okay. The one around Christmas?

D. SANDERS

1 A. Yeah.

2 Q. Is there a locker room at RNDC?

3 A. There are several locker rooms.

4 Q. Are there locker rooms for men and separate ones
5 for women?

6 A. Yes.

7 Q. Is there more than one woman's locker room?

8 A. There is probably -- there is one, big locker
9 room that is separated into alpha, beta, gamma, whatever.
10 You got names for them, but you are just going into one
11 door.

12 Q. Okay. So there is one woman's locker room with
13 separate little parts to it?

14 A. That is correct.

15 Q. Do you have a locker in the locker room?

16 A. Yes.

17 Q. Have you always had the same locker?

18 A. No.

19 Q. When did you change lockers?

20 A. Probably a year ago, now.

21 Q. Is that the first time you changed your locker?

22 A. No, because there was a -- when I started on the
23 job, they had a locker room for the women downstairs and
24 they closed that off, so we came upstairs.

25 Q. What, if anything, do you keep in your locker?

D. SANDERS

1 A. My uniform, my duty belt, my belt, everything
2 that I need to put on it, change of clothes, my jacket, my
3 holster.

4 Q. Anything else?

5 A. Cosmetics, reading material.

6 Q. If you don't wear your uniform to work, do you
7 bring your uniform to work?

8 A. Yes, when I take it home usually on my last, I
9 take it home and I wash it and put it in the cleaners, so,
10 yes, I bring it back.

11 MR. RAND: I object to the previous
12 question.

13 Q. Do you bring a uniform every day or do you bring
14 multiple uniforms on one day or something else?

15 A. If I am going to bring it, I would probably just
16 bring just the one and wear that for two days and bring a
17 new change.

18 Q. All right. So what did you do after you park
19 your car and enter RNDC?

20 A. First, we have to sign-in.

21 Q. Where do you sign-in?

22 A. You sign-in when you -- okay, wait, step back a
23 little bit. When you first come in, you have to go through
24 a metal detector. Then you have to take all your stuff
25 off, go through the magnetometer, put your bags through,

D. SANDERS

1 and then you have to put that stuff back on. You have to
2 go through another gate, that's where you sign-in at.
3 After you sign-in, you have to walk down, praying and
4 hoping it's not an alarm, you have to walk through a long
5 corridor. From the corridor, then you have to walk through
6 another corridor, which is going into the locker rooms.
7 And then for me, I have to walk through another corridor to
8 get to my locker and now I am at my locker.

9 Q. Okay. Do you signin every day?

10 A. Every day.

11 Q. And how do you signin?

12 A. What do you mean, how do you signin?

13 Q. Does signing in involve writing in any book?

14 A. No, there is a sheet, a sign-in sheet, and it's
15 at the front near the Control Room.

16 Q. And how do you signin, meaning, do you write your
17 name, do you write a time, what do you do?

18 A. You have to write your name or sign it, whatever,
19 however, your signature, whatever it is, and then, yes, you
20 put the time you come in.

21 Q. Do you put the time you come in, the time you are
22 standing in front of the sign-in sheet, the time the tour
23 starts, or something else?

24 A. I am usually on the island probably an hour and
25 40 minutes before my tour, but I probably just sign in the

D. SANDERS

1 stuck and then I just started doing -- I will volunteer
2 before you stick me.

3 Q. If you volunteered, would you have more control
4 over what day you were working the overtime?

5 A. No, no, it's what post.

6 Q. Okay. And what post did you prefer?

7 A. My house. If I was going to be stuck on the
8 Midnight, because it would be 3-11, so I would be stuck on
9 a Midnight, so I wanted to work in Three Lower.

10 Q. Three Lower, okay?

11 A. Uh-huh.

12 Q. And when you are on the 11-7, in the kitchen, is
13 it your preference to stay in the kitchen?

14 A. That is correct. But I don't always get that.

15 Q. All right. Once you are done with work for the
16 day, regardless of whether or not you have done overtime or
17 not done overtime, once you are done, what do you do when
18 you are relieved?

19 A. I usually got to go give back my OC. Give in the
20 count slip. Give in whatever other paperwork that I may
21 have.

22 Q. On your 11-7, if you haven't worked overtime,
23 when would you be done, approximately, what time would you
24 be done, you know, returning the OC, giving in the count
25 slip, and handing in your other paperwork?

D. SANDERS

1 Room, or someone else?

2 A. It would be the Control Room.

3 Q. Okay.

4 A. But there are a lot of times where you are
5 already stuck, in my case, a lot of times I am already
6 stuck, but I just don't want the post that they probably
7 have me assigned to, so I am already stuck.

8 Q. That's why you volunteer?

9 A. Yeah, that is correct, because I am already
10 stuck.

11 Q. Okay. You know you are going to have to do the
12 57 hours?

13 A. Right.

14 Q. So you think, why don't I do it in a place where
15 I would prefer to do it?

16 A. Right, that is correct.

17 Q. Understood. Now, you mentioned something before
18 about there being more overtime at the end of the year or
19 the overtime cap could be lifted at the end of the year?

20 A. Right. Well, on emergencies, there have been --
21 instead of you doing your 50, you are going to be stuck. I
22 think there was one day where we were triple stuck.

23 Q. Was that for some sort of emergency?

24 A. Yes.

25 Q. Do you know what the emergency was?

D. SANDERS

1 ended -- I am only going to put my slip in from, 0731,
2 which technically, you know, it's 0731 to 1531. So it
3 wouldn't be for 1545 or 15 -- whatever I walked out the
4 door or whatever time that I left that post to the next
5 post.

6 Q. Your slips correspond to actual tours?

7 A. That is correct. So your time on your count slip
8 -- like I said, you don't want anyone to kind of look at
9 your count, your sign-in, and look and say, oh, you was
10 here an additional two hours today, two hours yesterday,
11 two hours, and now, oh, you went over your time. Now, for
12 that time I went over, that time I am going to admin.

13 Q. What is the minimum amount of time you would
14 submit an overtime slip for?

15 A. One hour.

16 Q. Have you ever submitted an overtime slip for less
17 than one hour?

18 A. Forty-five minutes.

19 Q. Have you ever submitted one for less than 45
20 minutes?

21 A. No, I don't think so, no.

22 Q. How many overtime slips have you put in 45
23 minutes?

24 A. I have only done that in the beginning of my
25 career and that was for no meal.

D. SANDERS

1 work --

2 A. Yes, right.

3 Q. Do you know why you were not paid those two
4 times?

5 A. If my slip is not signed and personnel doesn't
6 get it, personnel is not going to submit it, so I am not
7 going to get paid.

8 Q. Do you know why those one or two slips were not
9 signed?

10 A. No, I have no clue why.

11 Q. When you work overtime and you opt to receive it
12 in cash, when do you receive that payment?

13 A. They have a calculation, I believe and I don't
14 want to really -- 'cause I am not sure how it go. I just
15 know we have a calendar. I am not sure whether it go, if
16 you do overtime this one, you won't get it this pay period,
17 but you will get it the next pay period, so I believe
18 that's how it go, but I am really not sure.

19 Q. Okay. How often are you paid for your salary?

20 A. Every two weeks.

21 Q. And are you paid for your overtime in that same
22 paycheck or do you get a separate paycheck for your
23 overtime?

24 A. One paycheck.

25 Q. How much approximately do you earn, currently,

EXHIBIT M

LF 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 ERIC EDWARDS, Individually and on Behalf of All Other
5 Persons Similarly Situated,

6 PLAINTIFFS,

7
8 -against- Case No.:
9 ECF 2008 Civ: 3134 (DLC)

10 THE DEPARTMENT OF CORRECTION OF THE CITY OF NEW YORK and
11 THE CITY OF NEW YORK,

12 DEFENDANTS.
13 -----X

14 DATE: February 4, 2011

15 TIME: 11:00 a.m.

16

17

18 DEPOSITION of the Opt-In Plaintiff,

19 CELESTINO MONCLOVA, taken by the Defendants, pursuant to a

20 Court Order and to the Federal Rules of Civil Procedure,

21 held at the offices of the New York City Law Department,

22 100 Church Street, New York, New York 10007, before JOSETTE

23 CORREA, a Notary Public of the State of New York.

24

25

C. MONCLOVA

- 1 A. I was 7-3. That's actually 0700 to 1531?
- 2 Q. So 7:00 a.m. to 3:31 p.m.?
- 3 A. Yes.
- 4 Q. How long were you on the 7-3?
- 5 A. As soon as I got to SOD.
- 6 Q. Is that July of 2009?
- 7 A. I believe so.
- 8 Q. Prior to working at SOD, did you have a regular
- 9 tour?
- 10 A. Yes.
- 11 Q. What was that?
- 12 A. 3-11.
- 13 Q. How long did you have the 3-11 then?
- 14 A. I worked 3-11 since roughly June of 2003.
- 15 Q. Until approximately July 2009?
- 16 A. Yes.
- 17 Q. And prior to June 2003, were you on the wheel?
- 18 A. Yes.
- 19 Q. Are you on a four and two schedule?
- 20 A. Yes.
- 21 Q. Have you always been on a four and two schedule?
- 22 A. Yes.
- 23 Q. In June 2003, where were you assigned?
- 24 A. Excuse me?
- 25 Q. What facility did you work in June of 2003?

C. MONCLOVA

1 Q. As a correction officer, do you wear a uniform?

2 A. Yes.

3 Q. Do you arrive at the facility in your uniform?

4 A. No.

5 Q. Have you ever worn your uniform to work?

6 A. No.

7 Q. Do you change into your uniform in the facility?

8 A. Yes.

9 Q. Why do you change into your uniform at the
10 facility?

11 A. It's really not wise to wear that uniform out in
12 public.

13 Q. Why do you say that?

14 A. A lot of people don't like correction officers.

15 Q. Did anyone ever tell you not to wear the uniform
16 outside the facility?

17 A. Yes.

18 Q. Who?

19 A. They basically encourage you not to in the
20 academy.

21 Q. Do you remember what they said?

22 A. They just basically let you know that there are a
23 lot of people that do not like correction officers. You
24 are making yourself a walking target if you wear your
25 uniform out in public. And you are making yourself a --

C. MONCLOVA

1 Q. Turning your attention to when you worked at AMKC
2 on the 3-11. What would you do when you first entered the
3 facility?

4 A. When you first enter the facility, you get on
5 line at the front gate where your bags are checked and you
6 have to walk through the magnetometer. Once you make it
7 through that checkpoint, then you go to the locker room.
8 You dress up. You put on your uniform. Your rig belt.
9 And you try to make 1500 hour roll call.

10 Q. What did you keep in your locker at AMKC?

11 A. My uniforms, my rig belt, my shoes, my hat, my
12 gloves, my jacket, my raincoat, maybe an emergency pair of
13 undergarments.

14 Q. Is that what you kept in your locker at GMDC?

15 A. I keep it in all my lockers.

16 Q. Okay. So at any facility that you have worked
17 at, that's the kind of thing you would keep in your locker?

18 A. Yes.

19 Q. When you worked at AMKC on the 3-11, was there a
20 log- or sign-in book?

21 A. Yes.

22 Q. When would you, in the course of coming into the
23 building and going into the locker room, when would you
24 sign-in?

25 A. Well, you we go to the locker room first.

C. MONCLOVA

1 a new tour?

2 A. Yes.

3 Q. Even if you were just going to work one or two
4 hours of overtime?

5 A. Yes. Because I am responsible for everyone and
6 everything that's in that area for those two hours.

7 Q. Who assigns overtime?

8 A. What do you mean?

9 Q. Besides the control room Captain, is there anyone
10 else who would tell you you are going to work overtime on
11 such and such a day?

12 A. Technically, only the area Captain is supposed to
13 tell you, but because he is really so busy, usually he
14 designates officers who are helping him out in the control
15 room to call certain people or tell them when they are
16 leaving.

17 Q. Do you ever volunteer for overtime?

18 A. I don't.

19 Q. Okay.

20 A. Other people do, but I don't.

21 Q. Have you ever volunteered for overtime?

22 A. Maybe, I did.

23 Q. If you did, would it have been a long time ago?

24 A. Yes.

25 Q. So if you volunteer for overtime, but you are

C. MONCLOVA

1 A. To the control room.

2 Q. Is that the same for every facility?

3 A. Yes.

4 Q. So what I was asking you before was, what is the
5 minimum amount of time you would submit a slip for?

6 A. Some people would submit a slip if they work one
7 minute overtime, I mean, you could.

8 Q. I am asking what you do?

9 A. What would I do? I try not to stay there too
10 long.

11 Q. I understand.

12 A. I avoid overtime like the plague.

13 Q. Understood.

14 A. There you go.

15 Q. But?

16 A. Usually when I am stuck, I am usually giving
17 somebody \$50 to take it for me. You know, here is \$50
18 bucks, take it please, let me go home, please.

19 Q. But there are times when you submit overtime
20 slips, correct?

21 A. Yes, yes.

22 Q. So what is the minimum amount of time you would
23 submit an overtime slip for?

24 A. After maybe ten, fifteen minutes. After 2331, I
25 would submit an overtime slip.

C. MONCLOVA

1 comes to comp time. They can just easily not file that and
2 I would have no way of knowing.

3 Q. What is comp time?

4 A. Like if you want to use that time for later on,
5 you could accumulate comp time. Like, if you want to
6 extend your vacation, you could take vacation and comp
7 time.

8 Q. How often do you receive a paycheck for your
9 regularly scheduled hours?

10 A. Every two weeks.

11 Q. Are you paid for overtime in that same paycheck?

12 A. Yes.

13 Q. When does payment for overtime appear in your
14 paycheck?

15 A. I don't know.

16 Q. Have you ever been stuck with overtime and then
17 not submitted an overtime slip?

18 A. I have done it once or -- I have done it a
19 couple of times.

20 Q. When?

21 A. Like I said, if an officer is late, they usually
22 ask us not to, because the officer can get in trouble, he
23 can be reprimanded for coming in late. So, therefore, if I
24 don't fill out the overtime slip, that means he won't be
25 reprimanded for being late.

C. MONCLOVA

1 Q. When you say "a couple of times," could you be
2 more specific?

3 A. No.

4 Q. Does that mean one or two times over the course
5 of your career?

6 A. Yes, I have done it no more than twice.

7 Q. Okay. Do you know what your base salary is?

8 A. No.

9 Q. Do you know approximately how much it is?

10 A. Eighty K, something like that.

11 MS. CARPENTER: No further questions from me
12 right now.

13 MR. RAND: I just have a couple of
14 questions.

15 EXAMINATION BY

16 MR. RAND:

17 Q. During the period that you worked for
18 corrections, did you ever see any notice posted that
19 indicated that you had a right to overtime and/or minimum
20 wages?

21 A. There were posters hanging up that say, that talk
22 about overtime. And they do have posters from -- and what
23 the minimum wage is, yes.

24 Q. Where are those posters?

25 A. Hanging in the hallway on a bulletin board.

C. MONCLOVA

1 Q. Which hallway?

2 A. Oh, man, different spots, but they do have them.

3 Q. Do you know what they say?

4 A. It's just the standard Department of Labor poster
5 about overtime and time and a half after 40 hours.

6 Q. You indicated that when you are relieved by
7 someone doing a double, that you are relieved late; is that
8 correct?

9 A. Yes.

10 Q. And approximately how often during each, you work
11 four on two off, right?

12 A. Yes.

13 Q. And how often during the four days on are you
14 relieved late due to being relieved by someone doing a
15 double shift?

16 A. It can happen, it could happen, you know, there
17 is no specific number, but it can happen.

18 Q. Is it approximately one or two times a week?

19 A. Like I said, it could be one or two times a week.
20 Sometimes it won't happen for like a month or two.

21 Q. Sometimes, does it happen more often?

22 A. Right, more often than others.

23 Q. And approximately how late is the person when
24 they are relieving you when they were doing a double shift?

25 A. Oh, that depends. Sometimes they can come in

C. MONCLOVA

1 there around 15, 20 minutes after 11:00 and then I have to
2 wait for them to inventory and do a head count. Sometimes
3 they show up 30 minutes after 11:00.

4 Q. Well, don't they have to complete their tour that
5 ends at 11:31?

6 A. Yes.

7 Q. So how could they get to you at 11:20, if they
8 are not even finished with their own tour?

9 A. It depends. You know, where they are at.
10 Sometimes, you know, depending on roll call --

11 Q. No, these are people doing a double shift, is
12 what I am talking about, do you understand, being relieved
13 by someone doing a double shift?

14 A. Oh, okay. Usually I am staying there until after
15 11:30, if I am waiting for someone doing a double shift.

16 Q. Okay. So if someone is doing a double shift --

17 A. -- yes --

18 Q. They have to finish their shift that ends at
19 11:31, correct?

20 A. Right.

21 Q. Then they have to travel to where you are --

22 A. -- right.

23 Q. Correct?

24 A. Yes.

25 Q. So they are not getting to you till, even just

C. MONCLOVA

1 arriving to your Post, until sometime after 11:31, correct?

2 A. Not always. Sometimes like I said at EMTC -- or
3 depending who is relieving them, like if it's an
4 experienced officer and it's a steady area and they know
5 where their equipment is and they can rapidly take
6 attendance, usually they can have them out of there, like
7 in twenty minutes, they can have them out of there in like
8 fifteen minutes.

9 Q. I am confused here. When they do a double shift,
10 that means that someone has finished their shift --

11 A. -- right.

12 Q. And then they are being stuck --

13 A. -- right.

14 Q. With additional time?

15 A. Right.

16 Q. So when they finish their shift, it's going to be
17 whenever they leave their shift at 11:31?

18 A. Right.

19 Q. Then they are going to tell you, no, go relieve
20 this extra person who, this person hasn't shown up?

21 A. Right.

22 Q. So how could they possibly get there earlier than
23 11:31; they haven't even finished their own shift?

24 A. Well, I am saying on occasion, sometimes on
25 occasion, other people, they are relieved -- even though,

C. MONCLOVA

1 to pick up your OC?

2 A. Yes.

3 Q. Approximately how long does it take you to pick
4 up your OC?

5 A. It depends on the line. Usually, I mean,
6 everybody who works in the facility has to get OC, and that
7 is usually one person that is handing out the OC, so it's
8 going to take you a little while.

9 Q. So what's the shortest amount of time it takes
10 you to get the OC?

11 A. It could take, I would say, it could take more
12 than five minutes or it could take less than five minutes.

13 Q. What I would like you to say is, what is the
14 minimum amount of time it has taken you to get the OC?

15 A. Sometimes I can get OC in less than two minutes.

16 Q. What is the maximum?

17 A. Sometimes I can wait anywhere from ten to fifteen
18 minutes.

19 Q. What is the average time it takes you to get the
20 OC?

21 A. I would say anywhere from three to six minutes.

22 Q. Do you ever take the insert out of your vest?

23 A. Occasionally, yes.

24 Q. And you do that if you sweat on the job and want
25 it dry?

EXHIBIT N

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----X
4 ERIC EDWARDS, individually and on
5 behalf of all other persons similarly situated,

6
7 PLAINTIFFS,
8
9 CASE NO.: 08CIV3134
10 (DLC) (GWG)

11 -against-

12 THE CITY OF NEW YORK,
13
14 DEFENDANT.

15 -----X
16 DATE: December 29, 2010

17 TIME: 2:25 p.m.

18

19 EXAMINATION BEFORE TRIAL of the PLAINTIFF,
20 AUGUSTIN RIVERA, taken by the Defendant, pursuant to a
21 Court Order and to the Federal Rules of Civil Procedure,
22 held at the offices of NEW YORK CITY LAW DEPARTMENT, 100
23 Church Street, New York, New York 10007, before GARY
24 MEROLA, a Notary Public of the State of New York.

25

RIVERA

1 the inmates' welfare is taken care of. That they are fed.
2 That they are given any soap, toilet paper, dispensed to
3 them.

4 That they make phone calls to their family, if
5 they need a visit, that they are sent to a visit, suppose
6 counselor came making sure that they see their counselor.

7 If their mail comes in, that you give them the
8 mail.

9 What else? You bring them to court, bring them
10 back from court.

11 If they need medical, say they need to go to the
12 hospital, escorting them to the hospital, making sure that
13 they are treated and make sure that they come back.

14 Q. What is your current salary?

15 A. Base?

16 Q. Yes.

17 A. It's in the low nineties. I wasn't sure. We got
18 a raise that's why, in November. I don't know what the
19 base salary went up to.

20 Q. What is your present work location?

21 A. 1 Hallich Street at the Vernon C. Bain Center.

22 Q. That is on Rikers Island?

23 A. No, ma'am. It is in the Bronx. 1 Hallich
24 Street, Bronx, New York.

25 Q. Have you ever worked in any another facility?

RIVERA

1 seven prior.

2 Q. Do you have any regularly scheduled days off now?

3 A. No, I work four days and off two and it is
4 rotating.

5 Q. Who is your direct supervisor currently?

6 A. Direct supervisor, well, there is no set person
7 that I'm underneath. It is basically an officer and
8 whoever is the captain.

9 The captain is the immediate supervisor. They
10 work different shifts so you might get somebody one day,
11 somebody the next day.

12 Q. Who are your captains?

13 A. Who are my captains?

14 Q. Yes. Who might you be reporting to?

15 A. The one that work that shift will be most likely
16 Captain DeBiancci.

17 Q. Anyone else besides Captain DeBiancci?

18 A. Captain Espanda.

19 Q. Anyone else that you can think of?

20 A. It is a whole bunch. It is whoever is working,
21 you know, whoever is working the control room that is the
22 captain that we report to. But, there are different times.
23 It could be whoever.

24 Q. Would it be accurate to say that your direct
25 supervisor is whoever the control room captain is on that

RIVERA

1 afternoon until 11:31 at night; is that correct?

2 A. Yes, ma'am.

3 Q. Does that tour have a name?

4 A. 3:00 to 11:00.

5 Q. When you work a 3:00 to 11:00, what time do you
6 generally arrive at Vernon C. Bain Center?

7 A. I try to get there a little bit early. Probably
8 about a quarter to, a quarter to 3:00, maybe ten to the
9 hour, that way I can go downstairs and put on my uniform
10 because it takes a little while to get through, because you
11 have to park and then you have to walk into the boat
12 because there is a tunnel, there is a gang plank, like when
13 you go on a cruise.

14 After that, then you would have to turn in your
15 weapon because I have a side arm. You would turn in your
16 weapon and there is only one officer assigned to that post,
17 that front post.

18 What happens is, you turn in the weapon and then
19 you have to wait for him to open up and then you would
20 check your bags, you know, have him search it.

21 Then you would go downstairs, sign in, go
22 downstairs to your locker, change, put on your uniform,
23 take out your equipment, put it on, tie your shoes, that
24 type of stuff and then you would close your locker and then
25 go upstairs and then try to make it in time for roll call.

RIVERA

(1 A. Because I don't want to get confused as a police
2 officer basically. I don't wear my uniform because I'm not
3 a police officer, I'm a peace officer and the thing is, I
4 don't want to, first of all, get confused with a cop.

5 If somebody needed a cop I couldn't, I could help
6 them, but say some shoplifting, that type of stuff like
7 that, that is really not my function as an officer.

8 Basically my duty is to work in a jail setting.
9 God forbid somebody was getting robbed or maybe somebody
10 was getting raped, something like that, then as a peace
11 officer I could act on it.

(12 Other than that, they try to discourage you from
13 that type of thing because that is not really your scope.

14 Plus you are not trained. You don't want to get
15 into no shoot out or stuff like that. Then I will becoming
16 to a lawyer like you and you are asking questions like why
17 did you get involved. That is not your job.

18 Q. Did anyone tell you not to wear your uniform
19 outside of Vernon C. Bain?

20 A. No.

21 Q. What do you do when you first enter the facility?
22 Do you drive to work?

23 A. Yes, ma'am.

(24 Q. After you drive and you park your car, what do
25 you do next?

RIVERA

1 have to qualify in order to keep this.

2 Q. One of the things that you have to do at Vernon
3 C. Bain is check your weapon inside the facility?

4 A. Yes, ma'am. You cannot go into the facility with
5 a firearm.

6 Q. You mentioned that before you go to the lockers
7 upstairs, you would time-in and time-out, correct?

8 A. There is a time-in sheet by the locker.

9 Q. What floor is the sign-in, sign-out sheets on?

10 A. It is on the first floor.

11 Q. Would that be the main floor?

12 A. The main floor.

13 Q. Now, when you sign in, do you sign in at the
14 exact time that it is when you are signing in or do you
15 sign in for the time your shift is supposed to begin or
16 something else?

17 A. I sign in for my shift and stuff. Some people
18 might sign in like twenty minutes early, me per se, I sign
19 in for my hour. But, that's me.

20 Q. That is all I care about.

21 A. Okay. Because I sign in 1500 to 2331.

22 Q. Do you sign out at the same time that you sign
23 in?

24 A. No. That is not permitted.

25 Q. Why not?

RIVERA

1 break?

2 A. Yes, ma'am.

3 Q. How long is your lunch break?

4 A. Approximately forty minutes.

5 Q. When do you take your lunch break?

6 A. It varies, ma'am. Whoever comes to relieve us.
7 Where I'm working at, the meals, the lunch, whatever, they
8 start relieving the officers, the earliest is at 4:30 and
9 it could vary to whatever time and depending on the housing
10 areas, because they said meal reliefs was, they would send
11 to the certain houses.

12 Other houses is cross relief that the officers
13 will crisscross and relieve each other and at that point in
14 time there will be instead of three officers, there will be
15 two officers but one will go back and forth checking sure
16 that everything is all right.

17 Q. Are you paid for the time that you are on your
18 lunch break?

19 A. Yes.

20 Q. How do you know when to take your relief break,
21 when your relief shows up?

22 A. Yeah, who is going first and they would relieve
23 you, you would take your meal and come back.

24 Q. Where do you have your meal?

25 A. Sometimes I will bring in some food and other

RIVERA

1 inmate. So, the fact is that whoever comes in has to go
2 out with the inmates.

3 Suppose say he is an inmate and me and him are
4 officers. Whatever post that we were assigned that day is
5 overtime because we have to go take him to the hospital.

6 Q. So, somebody has to take your position?

7 A. So, somebody has to take our post because we are
8 outside with him and that is overtime right there.

9 Q. Had you ever been ordered to perform mandatory
10 overtime?

11 A. Yes, ma'am.

12 Q. When was the last time that you performed
13 mandatory overtime?

14 A. This Sunday. During the snowstorm I had to go
15 and remove it.

16 Q. Do you always volunteer for overtime?

17 A. Yes, I do, but not often.

18 Q. How often do you volunteer for overtime?

19 A. Who knows, during the holidays maybe once or
20 twice, stuff like that but a lot of times there is
21 mandatory overtime because we will have people on vacation
22 or people call in sick, like the Sunday, you know, and then
23 that hole or that void had to be covered.

24 Q. Before when you explained what you did, the
25 process that you did when your shift was over, signing out,

RIVERA

1 the times, sometimes like say, I take my vacation in August
2 because the overtime is crazy and people were getting stuck
3 left and right so nobody went home.

4 Basically everybody was maxing out, the fifty-six
5 hours, they would have done it in like two weeks.

6 Q. If you were to volunteer for overtime or request
7 overtime, who would you make that request to?

8 A. The control room captain.

9 Q. Do you make that request on the day that you want
10 the overtime or in advance?

11 A. On a general, you would tell them early and stuff
12 like that. Say after roll call that you wanted to work,
13 but then, you know, say if there was like an absorbent
14 amount of overtime, sometimes they would call you before
15 the end of the shift, to say that you were stuck or tell
16 you when you are walking passed by the control room.

17 Q. Before you mentioned overtime slips.

18 What is the minimum amount of time that you would
19 submit an overtime slip for?

20 A. On a general rule, the minimum would be about an
21 hour.

22 Q. Before you said that you would submit an overtime
23 slip for thirty to forty minutes, is that also correct?

24 A. Sometimes. Because say you was working a double
25 shift. Now you go into maybe a triple, theoretically you

RIVERA

1 hours that they are paying officers and stuff, which
2 sometimes can be a lot and staple it and gives it to the
3 timekeeper and they do whatever they got to do.

4 Q. Is it your understanding that to receive payment
5 for overtime worked you must submit an overtime slip?

6 A. It is mandatory. That is how you get paid.

7 Q. Have any of your supervisors ever refused to sign
8 any of your overtime slips?

9 A. No, I can't say.

10 Q. Have you ever been denied compensation for
11 overtime that you worked and for which you submitted an
12 overtime slip?

13 A. No, I can't say.

14 Q. When you work overtime, you more often than not
15 chose to receive compensation in cash, is that right?

16 A. Yes.

17 Q. When you work overtime for cash, when do you
18 receive payment?

19 A. Well, basically how we work, say all right, last
20 Thursday say they give out the checks every Thursday. I
21 don't know how you guys get paid. It is every other
22 Thursday, every two weeks.

23 So, say I worked overtime the prior week and
24 stuff like that, Saturday is the cut off. So, if any
25 overtime that you worked would be on the following check.

EXHIBIT O

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 ERIC EDWARDS, Individually and on
5 behalf of all other persons similarly situated,

6 PLAINTIFFS,

7 -against-

8 Case No:
9 08 CIV. 3134 (DLC)

10 THE DEPARTMENT OF CORRECTIONS OF THE
11 CITY OF NEW YORK and THE CITY OF NEW YORK,

12 DEFENDANTS.
13 -----X

14 DATE: January 11, 2010

15 TIME: 10:20 a.m.

16 EXAMINATION BEFORE TRIAL of the Plaintiff,

17 JOHN SHAW, taken by the Defendants, pursuant to a Notice
18 and to the Federal Rules of Civil Procedure, held at the
19 offices of the New York City Law Department, 100 Church
20 Street, New York, New York 10007, before Ephraim Jacobson,
21 a Notary Public of the State of New York.
22
23
24
25

J. SHAW

1 health management, HMD, we're correction, and they have
2 their PD health management on the same floor as us. If
3 anyone calls in sick, they call in to us. Captains are
4 sent out to make sure they're in their residence from time
5 to time. Also, they come there to have any medical
6 documents reviewed, see if they are fit to return to duty
7 or to be kept out, and so on and so forth.

8 Q. You've been at Manhattan courts for approximately
9 eleven to twelve years; is that correct?

10 A. Yes.

11 Q. Do you have a regular tour at Manhattan courts?

12 A. Yes, 11 to 7. Midnights.

13 Q. That's 11 p.m. to 7 a.m.?

14 A. Yes. The actual tour ends at 0731.

15 Q. How long have you had this regular tour?

16 A. Nine years.

17 Q. Before that, but while you were still at
18 Manhattan courts, did you have a regular tour?

19 A. Before that we had a thing which we called the
20 wheel, so it was a different tour every week.

21 Q. While you were at Manhattan courts, were you
22 assigned to the wheel for approximately two to three years?

23 A. Yes.

24 Q. Currently, do you have any regularly scheduled
25 days off?

J. SHAW

1 Q. How frequently do you work overtime?

2 A. Let's see. For me, overtime, at least for me,
3 once every -- currently every --

4 MR. RAND: I'll just object to the question.
5 When you say overtime, do you mean when he's
6 designated overtime or he works more than his
7 shift?

8 MS. CARPENTER: I'm just asking him how
9 frequently he works overtime in general.

10 MR. RAND: The definition of overtime --
11 different people can have a lot of different
12 understandings of what overtime means.

13 MS. CARPENTER: He can answer the question
14 to the best of his ability.

15 MR. RAND: If you understand.

16 A. Yes. For clarification, currently, overtime with
17 us always fluctuates, so currently, overtime is somewhat,
18 somewhat at times optional. For the first two weeks of the
19 month, you can basically go without being stuck if you
20 don't want. "Well, I don't want it." "Okay, we'll just
21 stick someone else." The last two weeks of the month those
22 who like the overtime are maxed out -- fifty-six hours per
23 month -- and now you are stuck. So, I would say at least
24 for me, being a senior officer and the fact that we're
25 allowed to do mutuals for myself, I'm a rarity in this

J. SHAW

1 Q. You're given a key in return?

2 A. Yes, a number key.

3 Q. Where is the changing area located with respect
4 to the control room?

5 A. Now, those are spread out throughout the
6 building. Some people actually change next door. There's
7 a lack of locker space, so they've maintained their lockers
8 in The Tombs.

9 Q. Where do you change?

10 A. I change actually in The Tombs, south tower.
11 That's a good distance away. Separate building.

12 Q. Why do you change there?

13 A. That is the locker I've had since I was employed
14 and stationed at the Manhattan house, and after I went to
15 the courts there were no lockers available, so I maintain
16 the same locker to this day.

17 Q. Could you maintain a locker in 100 Centre Street?

18 A. If they had one available, I would like to, but
19 they never have room.

20 Q. Can you get to the changing area in the south
21 tower without going back outside?

22 A. Sure. You can work your way through the
23 Manhattan courts, again, going up the elevator to the third
24 floor, making a left and then a right, going across the
25 bridge. Now, you're in the old south tower of 125 White

J. SHAW

1 Tombs, and you go downstairs two steps, the locker room,
2 you have to go up the stairs and now you're in the old
3 south tower locker room.

4 Q. Do you arrive at Manhattan courts in your
5 uniform?

6 A. Only in the winter. In the spring, summer and
7 fall, it's too warm, and of course you can't travel on the
8 train in my uniform or else you'll attract too much
9 attention or the wrong sort of attention.

10 Q. What months do you arrive at work in your
11 uniform?

12 A. I arrive in uniform usually from the end of
13 October into, say, March, in the coldest months when you
14 actually have a change in the temperature. Then I just
15 throw something over it. But in the warm months, that's
16 impossible. You sweat to death on the way to work.

17 Q. When you say you'll throw something over it, what
18 do you mean by that?

19 A. A garment that will cover the shirt so no one can
20 see your insignia, see your patch and so on and uncover
21 your firearm.

22 Q. For example, you would wear a coat or a jacket?

23 A. Yes, waist-length, just past the waist a bit.
24 But you still need room, because unfortunately you do have
25 to clear your firearm if something should take place.

J. SHAW

1 Q. Did anyone ever tell you not to wear your uniform
2 outside the facility?

3 A. The only time they instruct you that is if you're
4 wearing just your uniform and you're going out to, say, a
5 store or on your lunch break, because with the courts you
6 can go out of the building, or if you go and check your
7 car, if you're hoping to drive in or something like that,
8 then you don't want somebody walking around in uniform
9 because it immediately draws attention from people and you
10 get questions. You can get caught up in various things
11 that take place in the street and they would prefer you not
12 to wear your uniform into work at all. They have never
13 mandated that, as they have done with PD.

14 Q. When you say "they," who do you mean?

15 A. Administration.

16 Q. Could you describe the locker room that you
17 change in.

18 A. Yes. It's about four to five aisles. Small
19 lockers. The lockers are very narrow. You have to go up a
20 long stairway to get to the locker from the first floor in
21 the south tower. Usually, a bench, one single bench in
22 between each locker. It's almost like a high school locker
23 room, a gym, but smaller. Two shower stalls and a bathroom
24 facility, and that's about it. And then there's a separate
25 one that breaks off, another narrow hallway with a small

J. SHAW

1 so if a child molester is too hot in here, can you put me
2 in a cooler place, it's done automatically. But the
3 officers, we have no options. They took it from us. We
4 don't have a lounge at all.

5 Q. You'd mentioned before that if there is an
6 emergency, you must respond to it?

7 A. Yes.

8 Q. If you were on your meal break and there were an
9 emergency, how would you know there was an emergency?

10 A. One, an alarm would sound. Usually, you're in
11 earshot of someone's walkie-talkie and you'll hear
12 something come across. Oftentimes, they know where you
13 are. You're not going very far, so you're always in the
14 company of another officer dropping in on somebody to talk
15 to some guys in CV, maybe or the control room right there,
16 so you will be made aware immediately and you will respond.

17 Q. If you were eating at The Tombs and there was an
18 alarm over there, you might have to respond to it there?

19 A. Yes.

20 Q. Are you paid for your meal break?

21 A. As far as I know, they say you have eight and a
22 half hours and you're paid for eight, so technically,
23 you're still working, even though it's supposed to be your
24 period. You're still on call. That's happened many times.
25 That's the reason why for many years I went to Tombs to

J. SHAW

1 makes sense to you, how often you're getting stuck with
2 just a few hours, as opposed to how often you're getting
3 stuck for a full tour?

4 A. I'd say more than three-quarters of the time
5 you're stuck for a full eight, more than three-quarters of
6 the time.

7 Q. Do you ever volunteer for overtime?

8 A. Never.

9 Q. When you get stuck, are you assigned to any
10 particular post?

11 A. It could be anywhere. They have a right to stick
12 me on the front gate because I know the post and they know
13 the day tour is the busiest time, and they also know he's
14 easygoing, Shaw's easygoing, and he's not going to bark in
15 my face about it.

16 Q. How often is your overtime post the front gate
17 post?

18 A. It's really hard to say these days. At one time,
19 when Captain Vaughn was there, she liked my being there
20 because it saved her beef with other officers about how
21 they don't want to be, but now infrequently. I'm usually
22 posted in other places.

23 Q. What other posts are you assigned to?

24 A. It could be anywhere. Central Booking, patrols,
25 many posts, Baxter gate, the rear entrance to the building,

J. SHAW

1 A. It has to be in time. It has to go into comp
2 time. It can't be in money.

3 Q. You have submitted a slip for fifteen minutes?

4 A. Yes. On occasion.

5 Q. The slip that you put in for fifteen minutes or
6 half an hour, those were paid to you in time?

7 A. In time.

8 Q. The slips for an hour or more are paid in cash?

9 A. They are supposed to be paid in cash. Normally
10 for me they have been, if they're an hour or more.

11 Occasionally, they try to get slick. You have to come
12 after them and say, excuse me, where's my two hours?

13 Q. Are you able to get those discrepancies
14 corrected?

15 A. Sometimes. Other times you just -- last week, I
16 was on a mutual. You're still doing two tours. You're not
17 supposed to go into triples. You're not supposed to go
18 into a third, no matter what. I was fifteen minutes into a
19 triple. If you go a couple of hours into a triple, they're
20 supposed to give you the night off when you come back.

21 Q. Last week, you were fifteen minutes into a
22 triple?

23 A. Yes.

24 Q. How does that fit into the --

25 A. Because the mutual -- how does it fit into it as

J. SHAW

1 A. Let's see. I had one attempt by Parkinson to do
2 so, but I thwarted it and I got it resolved, so no.

3 Q. Who was the ADW that you escalated the situation
4 to?

5 A. ADW Schmidt.

6 Q. I think you said that. Sorry. That's a male?

7 A. Yes.

8 Q. Do you know his first name?

9 A. I don't know his first name.

10 Q. Do you mostly call people by their last names?

11 A. In law enforcement, this is what you remember.
12 You don't picture a face. You picture a name plate.

13 Q. When you work overtime, when are you paid for
14 that overtime?

15 A. As should be, every two weeks. Two-week
16 intervals.

17 Q. When you're stuck for overtime, do you have the
18 option of being paid in time or in cash?

19 A. Yes.

20 Q. Do you choose one or the other?

21 A. I always choose cash.

22 Q. I don't think we've had an officer yet who chose
23 time. Are you paid bi-weekly?

24 A. Yes.

25 Q. Is your overtime paid in your regular paycheck or

J. SHAW

1 MS. CARPENTER: Objection, because it's a
2 mischaracterization.

3 A. I would say this. I would work and state that
4 I've never forgotten to put in an overtime slip. Have I
5 been encouraged not put it in? Yes.

6 Q. Have you intentionally not put in an overtime
7 slip?

8 A. Because you know that you will now be looked at
9 as being a pain in the ass. Fifteen minutes, huh? We'll
10 take care of you later.

11 Q. You said that you cover your uniform up when you
12 wear it to and from work?

13 A. Yes.

14 Q. Why do you cover up your uniform?

15 A. Because you don't want to be mistaken for a
16 policer officer. Your job is inside the jail, not on the
17 streets, even though you have authority in the entire
18 state. That is technically not your job, and you're not
19 supposed to be doing anything outside of your command. I
20 cover it because in the wintertime, I'm warmer and I can't
21 of course, walk on the train wearing a correctional uniform
22 jacket and hat and so on and so forth, because I'd probably
23 walk about two feet before having to deal with something.

24 Q. Is there any threat to your safety by wearing
25 your uniform in public?

EXHIBIT P

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----X
ERIC EDWARDS, Individually and on Behalf of All
3 Other Persons Similarly Situated,

4 PLAINTIFFS,

5 -against-

Case No:
2008CV3134

7 THE DEPARTMENT OF CORRECTIONS OF THE CITY OF NEW YORK
8 and THE CITY OF NEW YORK,

9 DEFENDANTS.

-----X

10
11 DATE: FEBRUARY 25, 2011

12 TIME: 2:30 p.m.

13
14
15 EXAMINATION BEFORE TRIAL of the Plaintiff,

16 IMMANUEL WASHINGTON, taken by the Defendants, pursuant to a
17 Notice and to the Federal Rules of Civil Procedure, held at
18 the offices of the NEW YORK CITY LAW DEPARTMENT, 100 Church
19 Street, New York, New York 10007, before Lesley Simpson, a
20 Notary Public of the State of New York.

I. WASHINGTON

1 Q. When you were at AMKC, what were your regular
2 days off?

3 A. I was on what they call the wheel, four and two
4 rotation -- no, sorry, four and two rotation for the entire
5 career at AMKC.

6 Q. So, it is only now that you have five and two?

7 A. Correct.

8 Q. You requested to go to the Storehouse?

9 A. No, I was interviewed and -- at first, I didn't
10 want to change my shift and do something different, but I
11 decided maybe, the change would be good for me. So, I
12 welcomed the change.

13 Q. So, someone from Correction came to you and said,
14 We would like to interview you for this position?

15 A. Yeah, somehow they got my name and they scheduled
16 the appointment and I, you know, I reported to where I was
17 suppose to and that was that.

18 Q. Is there a pay raise?

19 A. No, actually it was a demotion; because I was on
20 the midnight tour and I got eight complete -- I think it
21 was eight hours night differential. Once I got to 6 to 2,
22 that shift you only get I think it is a hour.

23 Q. Of night differential?

24 A. Correct.

25 Q. At the Storehouse, is there a post that you work?

I. WASHINGTON

1 I have a uniform on, I have to have a vest on and a firearm
2 and it is dangerous, it is in the middle of the night too;
3 because I leave my house around 3:30 in the morning. Even
4 when I drive, I do not wear a uniform.

5 Q. Because it is dangerous?

6 A. It is dangerous. Not even police officers do
7 that.

8 Q. Did anybody ever tell you not to wear your
9 uniform outside the facility?

10 A. In the Academy, they told you not to do that.

11 Q. Did they say why?

12 A. Because you need a vest and firearm when you are
13 in uniform.

14 Q. To protect yourself?

15 A. All right, the first thing a civilian would see
16 is somebody in the uniform. They would misconstrue you as
17 a police officer; and if there is a crime being committed
18 and they are screaming, Help, officer. And now you are in
19 a situation where you have no vest and no gun and you do
20 not know if the -- what the outcome the perpetrator has.
21 So, that puts you in an unsafe position. Also, not
22 everybody carries an off-duty weapon either.

23 Q. Do you carry an off-duty weapon?

24 A. I have one.

25 Q. Do you carry it?

I. WASHINGTON

1 A. If I clear it, it will take maybe two minutes;
2 and if there is a line, it will take a lot longer and most
3 of the time there is a line.

4 Q. There is or is not?

5 A. There is.

6 Q. How much is "A lot longer"?

7 A. A lot longer might be five minutes. Instead of
8 two, it is five.

9 Q. On average, how much time would you say it is, on
10 that shift?

11 A. That particular shift it would take you about
12 roughly five minutes.

13 Q. After you clear the magnetometer, what do you do
14 next?

15 A. I go into the locker room.

16 Q. How far away is the locker room from the
17 magnetometer?

18 A. Once you clear the security, which is the
19 magnetometer and everything, you go through two doors and
20 there is the male locker room on one side and an additional
21 locker room for the females on the other side.

22 Q. How long does it take you to get there from the
23 magnetometer?

24 A. Maybe 40 seconds.

25 Q. Would you arrive to AMKC?

I. WASHINGTON

1 Q. It did not?

2 A. Right.

3 Q. The gas line?

4 A. Yeah. For the chemical agent gas; because I
5 would have to -- because there is a line waiting to get
6 gas. Then by that time -- if you did not have enough time,
7 you report to Roll Call.

8 Q. Then you get your gas after?

9 A. After the commencement of Roll Call, you get your
10 gas.

11 Q. If there was a gas line, how long does it take to
12 get the gas?

13 A. Anywhere from two minutes to five minutes.

14 Q. So, if there was a line, you would not get gas
15 you would go straight to Roll Call?

16 A. Correct.

17 Q. What time was Roll Call?

18 A. 2300.

19 Q. Exactly?

20 A. Yes.

21 Q. Where was it held?

22 A. Once you enter through the control room gates, it
23 might be 100 feet away.

24 Q. How long did Roll Call usually last?

25 A. Anywhere from five minutes to 20 minutes

I. WASHINGTON

1 -- not your shield number, but your ID number. You do put
2 your shield number as well but your ID number is your
3 payroll number. You put the post you worked and then it is
4 presented to the control room where it is signed by a
5 supervisor.

6 Q. You said you put your tour. Do you put your
7 tour, your scheduled tour, or the times you actually
8 worked?

9 A. You put your originally scheduled tour, and then
10 you put your overtime tour.

11 Q. Who signs off on it, a supervisor?

12 A. Supervisor, control room supervisor signs off on
13 it.

14 Q. Is it your understanding that to receive payment
15 for overtime, that you have to submit the overtime form?

16 A. Yes, that is correct; but if you put in an
17 overtime slip for less than 15 minutes, they will not pay
18 you. They will also ask, why are you putting in a slip for
19 less than 15 minutes; and if your explanation does not
20 warrant what they feel is appropriate, they will not pay
21 you. I say I was relieved at this time and then I had to
22 wait on the gas line, or vice versa, that is -- to them
23 they do not consider that overtime.

24 Q. What is the shortest amount of time that you have
25 ever submitted an overtime slip for?

I. WASHINGTON

(1 A. 15 minutes.

2 Q. Was that approved?

3 A. Yes.

4 Q. When was the last time you submitted an overtime
5 sheet for 15 minutes?

6 A. I can't tell you.

7 Q. A long time ago, last week?

8 A. A long time ago, I can tell you anything less
9 than 15 minutes they tell you do not put it in because they
10 will not pay you.

11 Q. Did anyone ever tell you?

12 A. Yes.

(13 Q. Who told you that?

14 A. Control room supervisor I have been told that.

15 Q. Who is the control room supervisor?

16 A. When this happened, this was years ago. I have
17 even ran into a situation where I was requested to stay
18 late to fill out a report that I never gotten paid for, and
19 that captain was Captain Bolden.

20 Q. How long did you stay to fill out the report?

21 A. Half hour.

22 Q. Did you put in an overtime slip for that half
23 hour?

24 A. Yes, I did.

(25 Q. Were you paid for that?

I. WASHINGTON

1 than one occasion. If it is not -- the problem is that you
2 need a supervisor to sign it. You can submit anything you
3 want but it will not go on the tour sheet, it will be given
4 back to you.

5 Q. Have you ever had an overtime slip given back to
6 you?

7 A. Yes, less than 15 minutes.

8 Q. For filling out --

9 A. 10 minutes, five minutes, it has been given back
10 to me.

11 Q. When was the last time you submitted an overtime
12 slip for five or 10 minutes?

13 A. A long time ago.

14 Q. Years?

15 A. Years, that is what made me stop once they just
16 give them back to you. Pretty much you are in trouble if
17 you do it if it is not authorized, you're chastised.

18 Q. So, having been told not to submit one for less
19 than 15 minutes, what is the least amount of time that you
20 would submit one for?

21 MR. RAND: Objection.

22 A. 15 minutes.

23 Q. How often would you submit 15 minute overtime
24 slips?

25 A. Maybe two times a month.

I. WASHINGTON

1 Q. Were you paid for them?

2 A. Yeah.

3 Q. When did Captain Bolden refuse to sign your 30
4 minute overtime slip; do you remember the date?

5 A. I remember the year, it was 2006 -- no. Wait, --
6 yeah, it had to be 2006.

7 Q. Other than that time and other than your slips
8 being returned to you for five and 10 minutes, were there
9 other times you have not been paid when submitting an
10 overtime slip?

11 A. No.

12 Q. How many five or 10 minutes overtime slips did
13 you submit, that were returned to you?

14 A. Maybe about four or five. I got the hint after
15 like the fifth time that they are not going to pay you.

16 Q. Did you complain to your union about this policy?

17 A. I have very little faith in the union.

18 Q. Is that a no?

19 A. No, that is not a pressing issue for them.

20 Q. Have you ever not worked overtime and submitted
21 an overtime slip?

22 A. No.

23 MR. RAND: Objection to the last question.

24 A. I need clarity on that question. When you say
25 "Worked overtime," it is either scheduled or -- you are

EXHIBIT Q

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 ERIC EDWARDS, Individually and on behalf
5 of all other persons similarly situated,

6 PLAINTIFF,

7 -against-

8 08 Civ.3134
9 (DLC) (GWG)

10 CITY OF NEW YORK,

11 DEFENDANT.

12 -----X

13 DATE: March 11, 2011

14 TIME: 10:15 a.m.

15 EXAMINATION BEFORE TRIAL of the Plaintiff,

16 JOSEPH FRANCO, taken by the Defendant, pursuant to
17 Court Order, held at the New York City Law Department,
18 100 Church Street, New York, New York 10007, before
19 Gena Nardone, a Notary Public of the State of New York.
20
21
22
23
24
25

1 A P P E A R A N C E S:

2

3 LAW OFFICE OF WILLIAM COUDERT RAND
Attorneys for the Plaintiff
4 228 West 45th Street, 17th Floor
New York, New York 10017
5 BY: WILLIAM COUDERT RAND, ESQ.

6

7 MICHAEL A. CORDOZO, ESQ.
CORPORATION COUNSEL
8 NEW YORK CITY LAW DEPARTMENT
Attorney for the Defendant
9 100 Church Street
New York, New York 10007
10 BY: ANDREA O'CONNOR, ESQ.
File No. 2008-014682

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 A I would arrive at Rikers Island
2 approximately 2:15 in the afternoon.

3 Q Then what time would you actually arrive
4 to the facility?

5 A I would arrive to the facility after
6 parking my car, five minutes after that.

7 Q What would you do kind of when you arrived
8 at the outside of the facility?

9 A Outside of the facility, I would walk
10 inside the facility, relinquish my firearm to the
11 control room.

12 Q Is that inside the facility or outside or
13 is it inside the gate but inside the facility?

14 A Inside the facility, but not in the
15 housing areas where the inmates live. It would be
16 the admin offices.

17 Q Is this is your personal firearm?

18 A Yes, personal protection firearm.

19 Q What would you do next?

20 A Next I would sign in at that time and I
21 would go to the locker room.

22 Q Did you have to go through, was there like
23 a security -- a magnetometer or metal detector?

24 A There was but my locker room was located
25 before that.

1 Q When you would sign in, would you sign in
2 your tour start time or would you sign in the actual
3 time?

4 A Actual time that I got there.

5 Q So if it was 2:45, you would sign 2:45?

6 A 2:15, I would sign 2:15.

7 Q Then you would head down to the locker
8 room?

9 A Up to the locker room.

10 Q Would you bring anything with you on a
11 daily basis?

12 A I would usually bring my lunch, water,
13 clean clothes, clean uniforms.

14 Q Would you bring, like at the start of a
15 four day stretch, would you bring your uniforms all
16 that day or would you bring them each day?

17 A That would depend, if I happened to get
18 dirty and I need a new uniform. It would depend.

19 Q Would you ever come in any part of your
20 uniform?

21 A No, never. I would not. I don't wear my
22 uniform in the street. It was too dangerous. I
23 could be recognized by inmates and it would be
24 dangerous to encounter an inmate in uniform. They
25 would recognize me faster.

1 Q Did anyone tell you not to wear your
2 uniform outside of the facility?

3 A No.

4 Q What do you keep in your locker in the
5 locker room?

6 A I would keep my work shoes, my uniform
7 pants, my uniform shirt, equipment that belonged to
8 me, flashlight, 911, pens, pencils, my shirt, change
9 of underwear, undershirts, my slash proof vest and
10 assorted sundries that go with the job.

11 Q Now, other than your shoes, pants, shirt,
12 vest, utility belt, are there any other parts of
13 your uniform?

14 A No. There would be -- there would be a
15 hat, notebook.

16 Q That's on the belt?

17 A That would go in the pocket, the notebook.

18 Q Do you ever bring kind of the things you
19 have on the utility belt, did you ever bring those
20 home?

21 A No.

22 Q But I think you said those are yours. Do
23 you buy them? Are those issued?

24 A Those are bought by the individual
25 officer; my flashlight, my 911 knife, pens, pencils,

1 notebook, memo book.

2 Q Do you buy the actual clothes uniform too?

3 A Yes.

4 Q But the vest is issued by DOC?

5 A The vest is DOC property and it's issued,
6 yes.

7 Q Do you ever bring that home?

8 A The part of it that I would bring home is
9 the shell to laundry it.

10 Q Once you get into the locker room, what do
11 you do?

12 A Go to the bathroom, start getting dressed,
13 taking off my street clothes, start putting on my
14 uniform and undershirt, vest, pants, shirt and make
15 sure everything is configured right because the vest
16 could be very uncomfortable. And utility belt, make
17 sure all my equipment is correct, my flashlight is
18 working, go to the bathroom, groom myself. Then get
19 ready to report.

20 Q How long would you say that it takes
21 you -- what do you put on first?

22 A Well, I would take off my street clothes.

23 Q After you take off your street clothes,
24 what part of your uniform do you put on first?

25 A I usually put on my underwear, my

1 Q How long does it take you to put your
2 shoes on?

3 A Well, I wore boots and so I would have to
4 strap the laces and maybe another two minutes.

5 Q Then what's next?

6 A Next would be I would put my shield --
7 take my shield out of the case, put it on the
8 holder, then pin it to my uniform. A minute.

9 Q What's next?

10 A Next would be the belt.

11 Q You have a pants belt and utility?

12 A I have a pants belt that's already on my
13 pants. I would secure that. That would be secured.
14 Then I would secure my utility belt, make sure
15 that's fitting properly. Then place the property
16 around the belt.

17 Q That was actually my next question. At
18 the end of each of your tours, would you take off
19 that equipment on your belt and put it in your
20 locker or would you leave it attached?

21 A I usually took it off?

22 Q Then what do you do next?

23 A Next I would go to the bathroom and make
24 sure I was correct, look in the mirror, comb my
25 hair, maybe gargle, rinse my mouth out. Put some

1 water on my face. That would be it.

2 Q Once you were dressed and ready to go,
3 what would you do?

4 A Well, by that time I would start making my
5 way down to the facility.

6 Q What would you do after you made your way
7 down?

8 A Came down to the facility. I would clear
9 the magnetometer. I would have to take the utility
10 belt off to pass the magnetometer because it's
11 metal, pass the magnetometer, put the utility belt
12 back on. Then I would enter the cell, report to the
13 facility.

14 Q Now, this is the first -- we've done a
15 bunch of these depositions. This is the first I
16 heard where the locker room was before the
17 magnetometer.

18 A Right.

19 Q Why is your facility different, if you
20 know?

21 A They have locker rooms inside that you
22 have to past magnetometer first and then they have
23 locker rooms on the outside. I guess it was an
24 afterthought. They needed more space.

25 Q Some people get dressed past magnetometer.

1 A Yes.

2 Q Would it take you about the same amount of
3 time to change, the kind of time frame we talked
4 about earlier --

5 A Yes.

6 Q -- to change out as it did to change in?

7 A Yes.

8 Q Anything else at the end of your time that
9 you would do in your locker room, besides just
10 changing out of your uniform into your street
11 clothes?

12 A Wash my hands.

13 Q Some people said they showered.

14 A Yeah, they could happen. I've done that
15 once or twice, when I was involved in something that
16 got me grimy. I wouldn't want to bring it home.

17 Q That wasn't part of your regular routine?

18 A No, but I would definitely wash my hands
19 and my face.

20 Q What would you do once you were changed
21 back in your street clothes?

22 A Walk down the stairs, go to the window for
23 my personal protection firearm, which could take
24 another ten or fifteen minutes, because there was
25 other people and they usually only had one officer

1 partial tour, yes.

2 Q It would be a couple hours or a whole
3 tour?

4 A Yes.

5 Q How often would you work the scheduled
6 overtime, maybe looking at the last two years you
7 were working?

8 A Two times a week.

9 Q For those scheduled overtimes you would
10 turn in an overtime slip for those?

11 A Yes.

12 Q Were you ever not paid for those scheduled
13 overtimes?

14 A No.

15 Q Did you have a way of keeping track of the
16 overtime you worked that was not scheduled overtime?

17 A In the beginning, yes, I would mark it
18 down in my book. Then after not being paid, just
19 ate. You got to eat that.

20 Q If you didn't keep track of the non
21 scheduled overtime, how would you know you weren't
22 being paid for it?

23 A From my paycheck.

24 Q How did you keep track of how much you
25 should be getting?

EXHIBIT R

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
ERIC EDWARDS, INDIVIDUALLY AND ON BEHALF
OF ALL PERSONS SIMILARLY SITUATED,

PLAINTIFFS,

-against- Case No:
08 CIV. 3134
(DLC) (GWG)

CITY OF NEW YORK,

DEFENDANT.
-----X

DATE: March 2, 2011
TIME: 10:15 a.m.

DEPOSITION of the Plaintiff, RAFAEL CRESPO,
taken by the Defendant, pursuant to a Court Order and to
the Federal Rules of Civil Procedure, held at the offices
of Michael A. Cardozo, Esq., Corporation Counsel, New York
City Law Department, 100 Church Street, New York, New York
10007, before Gena Nardone, a Notary Public of the State of
New York.

CRESPO

1 A. Ten years.

2 Q. So the entire time you were at VCBC you were on
3 the 5 a.m. to 1:30 p.m. tour?

4 A. Yes.

5 Q. So my questions, unless I specify otherwise, I'll
6 try and be as clear as possible, will focus just on your
7 times at VCBC.

8 A. Just my times at VCBC.

9 Q. In June 2009 did you have a steady post?

10 A. Yes, I did.

11 Q. What was that post?

12 A. That was the driver escort post.

13 Q. How long did you have that steady post?

14 A. Ten years.

15 Q. So the entire time you were at VCBC?

16 A. Yes.

17 Q. Can you describe to me what the driver escort
18 post is?

19 A. Yes. The main thing of my post is basically my
20 job was to transport inmates to court.

21 Q. Is this a post that you requested?

22 A. Yes.

23 Q. Did you have regular days off?

24 A. Yes, I did.

25 Q. Did you work Monday through Friday?

CRESPO

1 A. Yes.

2 Q. Then you had Saturday and Sunday off?

3 A. Yes.

4 Q. Was that the same for the whole time you were at
5 VCBC?

6 A. Yes.

7 Q. I kind of just want you to take me through a
8 typical day for you at VCBC, so starting with the time you
9 arrive on to Rikers Island. So when you were working that
10 5 a.m. to 1:30 p.m. tour, what time would you arrive on
11 Rikers Island?

12 A. Well, actually VCBC is not on Rikers Island.

13 Q. It's in the Bronx?

14 A. Yes.

15 Q. Sorry about that. So what time would you arrive
16 at VCBC?

17 A. I would say I would arrive about 4:35, 4:40 in
18 the morning.

19 Q. What would you do when you first got up to like
20 the facility gates?

21 A. Okay. I would wait for the officer to allow me
22 to enter the gate. That gate would open. Then I would
23 display my shield and ID. And also my parking permit.
24 Then that officer would grant me access to enter the
25 parking area.

CRESPO

1 of picking up the weapons. Like he would say unholster my
2 weapon, I would take the ammo out and then present him the
3 weapon. Secure it and then that's when he would lock my
4 weapon up and then he would issue me a key.

5 Q. That's the key that you were talking about that
6 he would give you a key?

7 A. Yes.

8 Q. Was this your personal firearm?

9 A. This was my personal firearm, yes.

10 Q. So you give your weapon. You turn your weapon
11 in. You go through, you clear the magnetometer. How long
12 would you say that would take you just do clear the
13 magnetometer ?

14 A. I don't know, probably maybe about a minute.

15 Q. How long would it take you to check in your
16 weapon?

17 A. Maybe about twenty seconds, thirty seconds, tops.

18 Q. They would keep it there for the duration of your
19 shift?

20 A. Yes, they would.

21 Q. Then what would you do next after you've cleared
22 the magnetometer?

23 A. After I would clear the magnetometer then I would
24 take my belongings again, you know, my keys, my wallet and
25 then the officer would grant me entrance to the facility

CRESPO

1 inside. Then I would go down to the locker room.

2 Q. Before I forget, I want to ask you, are you
3 employed now?

4 A. No, I'm not.

5 Q. Have you been employed since January of 2010?

6 A. Yes.

7 Q. Where were you employed?

8 A. I'm working per diem for Bodedo & Associates.

9 Q. What is that?

10 A. That's a private investigation.

11 Q. Are you still working per diem for them now?

12 A. Yes.

13 Q. When did you begin working for them?

14 A. That was April of 2010.

15 Q. About how many days a week would you say you work
16 for them or days in a month?

17 A. I would say on average of probably two days a
18 week, if that.

19 Q. So now going back to what we were talking about
20 before. You said that after you cleared the magnetometer
21 you would go down to the locker room; is that correct?

22 A. That is correct.

23 Q. Where is the locker room located kind of in terms
24 of where you walk in, like do you have to go downstairs or
25 where is it?

CRESPO

1 A. I'm not sure also on the time. I put my utility
2 belt and, you know, I got to adjust -- like I said, the
3 weapon holder. I got to adjust my extra rounds pouch, I
4 got to adjust my handcuffs. I got to adjust my pouch. I
5 don't -- I can't -- I don't have an actual time. I don't
6 have an actual time.

7 Q. Would you say it took you longer than a minute?

8 MR. RAND: Objection.

9 A. I'm sure it probably took me longer than a
10 minute, yes.

11 Q. Longer than two minutes?

12 A. I don't know. Probably about -- yeah, probably
13 longer than two minutes, I guess.

14 Q. Longer than three minutes?

15 A. I'm not sure.

16 Q. Maybe around two to three minutes?

17 A. Yes.

18 Q. How long would it take you to put your boots on,
19 your work boots?

20 A. Probably a minute.

21 Q. Would you ever come to work in any part of your
22 uniform already on?

23 A. No, I was afraid to come in my uniform because I
24 would fear for my life out there. I don't want to be
25 identified, you know, outside as a correction officer, so

CRESPO

1 no I did not.

2 Q. Go ahead.

3 A. Like I said, I was fearing for my life. You
4 know, I wouldn't do that. That was one thing I didn't do.

5 Q. Were you ever identified outside of the facility
6 as a correction officer by a former inmate?

7 A. As a matter of fact, I was.

8 Q. What happened when that happened?

9 A. It was a scary. It was scary because, you know,
10 the person approached me and I said I know you. I'm like
11 from where? He told me you're CO. I said no, I think you
12 got me mistaken for someone else. I tried to brush him
13 off. It was scary. Because I was afraid, you know,
14 something could have happened. He could have probably hurt
15 me or something. Once he identified me that way as an
16 officer. It was kind of scary so I tried to, you know,
17 avoid wearing my uniform. I didn't wear my uniform
18 outside.

19 Q. So now once you're all changed, you're in your
20 uniform, what do you do next?

21 A. What do you mean once I have my whole complete
22 uniform on?

23 Q. Yeah.

24 A. Then what I would do, is, you know, I would lock
25 my locker and go upstairs and get ready for roll call.

CRESPO

1 regular clothes.

2 Q. So how long would that process would you say take
3 of exchanging the information with your relief and then
4 going back to return the weapons, how long would you say
5 that would take in total?

6 A. It varies, I can -- I can let them know what's
7 going on five, ten minutes. Give them an approximate
8 breakdown of what happened five to ten minutes it would
9 take. Then like I said, he would have to take a count of
10 the handcuffs and exchange the handcuff keys and leg irons.
11 After that I would go pick up the weapons. That would take
12 another ten minutes. Ten to fifteen minutes maybe just to
13 go outside, pick up the weapons and return them back to the
14 arsenal.

15 Then as I went downstairs and got up dressed,
16 that took also some time there because at least a couple of
17 days out of the week I would take my -- take out the
18 inserts of my ballistic vest and would I take my vest home
19 to have it washed, also changing from my black socks to my
20 white socks to go home and, you know, I would also,
21 depending on the type of day, if it was raining or anything
22 like that, I would also, you know, polish my shoes real
23 quick, you know, just to have it ready for the morning. I
24 would do that. And, you know, what else? And just hang
25 all my stuff up and get undressed and go.

CRESPO

1 overtime slip? Meaning I guess that's now fifty minutes
2 past your tour end time?

3 MR. RAND: Objection.

4 Forty, forty-nine minutes.

5 A. My partner arrived at what time again?

6 Q. If they got there about 2, your relief got there
7 at 2?

8 A. Yes, I would put in an overtime slip.

9 Q. So what's the minimum amount of time you would
10 put in an overtime slip for?

11 A. The minimum amount of time, I would probably put
12 maybe 30 minutes minimum.

13 Q. Have you ever put in an overtime slip in for less
14 than thirty minutes?

15 A. I did put in for less but I put in for comp time.
16 Like I said, a lot of times when I was relieved at 1:10,
17 1:15, then I return my weapons and all that, I didn't -- I
18 used to leave the facility 1:35, 1:40, 1:45, I didn't put
19 no overtime slip for that. Like I said, you don't want to
20 nickel and dime them, then when that post comes up that you
21 get overtime, they'll label you and you won't get that
22 overtime.

23 Q. When you talk about not getting that overtime,
24 you're talking about doubles?

25 A. Yeah.

CRESPO

1 Q. Did that overlap to you where you felt as though
2 you didn't get overtime because you had put in slips for
3 let's just say smaller amounts of overtime?

4 MR. RAND: No.

5 A. But I knew some officers that did that and they
6 didn't get the overtime which they wanted.

7 Q. Were these officers that you worked with that
8 were on your tour?

9 A. That was on facility?

10 Q. Yes.

11 A. That were in the facility, yes, not on my tour.

12 Q. Not on your tour?

13 A. Uh-huh.

14 Q. Do you remember any of their names?

15 A. No, I do not.

16 Q. Do you remember what they said?

17 A. No, I didn't remember what they said. I didn't
18 hear what they actually said. Someone else had mentioned
19 it and that's when I heard it.

20 Q. Did you ever put in an overtime slip that you
21 ended up not being paid for that overtime?

22 A. Yes.

23 Q. Has that happened more than once?

24 A. It happened a few times, yes.

25 Q. How many times is a few?

CRESPO

1 A. Three, four, about three or four times I didn't
2 get paid that pay period but when I approached the
3 personnel and we compare, you know, our notes then he
4 noticed that it wasn't put out overtime for that pay
5 period. So the following pay period I got paid for it.

6 Q. So those three or four times when you put in a
7 slip and didn't get paid until the next pay period for the
8 overtime, did you bring it to your supervisor's attention?

9 A. No, I brought it to my timekeeper.

10 Q. Your timekeeper, okay. Those three or four times
11 did you end up getting paid for that overtime?

12 A. Yes, I did.

13 Q. You said you brought paperwork to them. What did
14 you bring to the timekeeper?

15 A. Basically every time I did overtime I wrote it
16 down on a book that I had and then I compared it with the
17 paperwork that they had. He noticed that yes, for that day
18 I didn't get paid the eight hours that I was supposed to
19 get paid and then he, you know, what they do in payroll is
20 they sent it downtown, then I got paid for the following
21 pay period. I guess he submitted it.

22 Q. Have you ever brought an overtime slip to one of
23 your supervisors an they told you know I'm not signing
24 that?

25 A. Yes, it did happen.

EXHIBIT S

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----X

4 ERIC EDWARDS, Individually and On
5 Behalf of All Other Persons Similarly
6 Situated,

7 PLAINTIFF,

8 -against- Case No:
9 08-CV-03134

10 THE DEPARTMENT OF CORRECTIONS OF THE CITY OF
11 NEW YORK and THE CITY OF NEW YORK,

12 DEFENDANTS.
13 -----X

14 DATE: February 23, 2011

15 TIME: 4:19 p.m.

16 DEPOSITION of the Plaintiff,
17 NOEL GERSHONOWITZ, taken by the Defendants,
18 pursuant to a Notice and to the Federal Rules
19 of Civil Procedure, held at the offices of the
20 New York City Law Department, 100 Church Street,
21 New York, New York 10007, before EPHRAIM JACOBSON,
22 a Notary Public of the State of New York.

23

24

25

N. GERSHONOWITZ

1 A. No.

2 Q. Have you ever been brought up on disciplinary
3 charges while employed with DOC?

4 A. No.

5 Q. What about any facility-level discipline?

6 A. No.

7 Q. Have you ever been employed by any other City
8 agency other than DOC?

9 A. No.

10 Q. Prior to becoming employed with DOC in October
11 1997, where were you employed?

12 A. I worked with Thorn Industries, accounts
13 receivable.

14 Q. What position did you hold there?

15 A. Accounts receivable.

16 Q. How long were you employed there?

17 A. A year.

18 Q. Your current title is correction officer,
19 correct?

20 A. Yes.

21 Q. Have you ever held any other title with DOC?

22 A. No.

23 Q. What's your present work location?

24 A. 125 White Street.

25 Q. That's the Manhattan Detention Center?

N. GERSHONOWITZ

1 A. Yes.

2 Q. How long have you been assigned there?

3 A. Two years.

4 Q. Where were you assigned prior to MDC?

5 A. AMKC on Rikers Island.

6 Q. How long were you assigned there?

7 A. '97 till 2007, 2008.

8 Q. I'm going to ask you the same questions for your
9 current tour at MDC, the past two years that you've been
10 employed at MDC, and then I'm going to go back and ask you
11 the same questions again for when you were at AMKC. What's
12 your current tour?

13 A. I work 7 to 3.

14 Q. Is that 3:31?

15 A. 0700 by 1531. 3:31.

16 Q. How long has that been your tour?

17 A. For the length of time I was at Manhattan. I'm
18 sorry. Three years. I'm sorry.

19 Q. That's been your tour since you've been at MDC?

20 A. Yes.

21 Q. Do you have a steady post?

22 A. No.

23 Q. What types of posts do you work at MDC?

24 A. I don't understand.

25 Q. Is there more than one type of post at MDC?

N. GERSHONOWITZ

1 A. Maybe five minutes because everybody goes through
2 there; officers, supervisors, civilians, and civilians
3 usually carry a lot more baggage, and each thing has to be
4 put through and viewed.

5 Q. What do you do next once you clear the
6 magnetometer?

7 A. Wait for them to open the security door so you
8 can walk in, and then head towards the locker room.

9 Q. Is there a sign-in or sign-out book?

10 A. Right there. It's sign-in sheets on a long
11 board.

12 Q. Do you sign in right when you cleared the
13 magnetometer?

14 A. Usually that's kind of tough because it's a
15 high-traffic area. Usually you just want to get
16 downstairs, change, and try to sign in on your way up.

17 Q. Okay. You get through the magnetometer, you get
18 down to the locker room. What do you do next? I'm
19 assuming you change?

20 A. Hopefully, there's room to change. If you get a
21 bunch of big guys in one little area, it's funnier than a
22 TV skit.

23 Q. Do you bring your uniform with you every day?

24 A. I leave it in the locker, bring it home once a
25 week to be laundered, and then change back and forth.

N. GERSHONOWITZ

1 Q. Do you ever come to work all ready in any part of
2 your uniform?

3 A. Never.

4 Q. Why not?

5 A. I take public transportation. It's not always
6 the safest thing to let people know what you do for a
7 living, depending on where you live and where you're coming
8 from. It's just not always the best thing to do.

9 Q. Have you ever been recognized by a former inmate?

10 A. Yeah.

11 Q. What happened?

12 A. Yankee Stadium, on line waiting at the concession
13 stand. "Yo, what's up, Mr. G.?" I'm holding my son's
14 hand. He was about five. All right. I don't remember
15 him, so that's a good thing. But he had no problem
16 remembering me; where, when, what housing area, you know,
17 who my partner was. You know, wakes you up.

18 Q. Do you remember anyone ever telling you, "Don't
19 wear your uniform outside the facility"?

20 A. When you're a new officer -- nowadays they don't
21 listen -- but you used to listen to the old-timers tell you
22 to try to lead you through the ways of the way things are.
23 You take it. It makes sense. Why do you want to be
24 spotted, because they'll always spot you, and all the guys
25 told us, they'll always spot you before you spot them, and

N. GERSHONOWITZ

1 A. Yes, when relief shows up. Hopefully they show
2 up.

3 Q. I didn't ask you this. Is your schedule 4 and
4 2s?

5 A. 5 and 2.

6 Q. What are your days off?

7 A. Saturday and Sunday.

8 Q. Was that the same when you were on the security
9 post?

10 A. Yes. He didn't change it yet, so far.

11 Q. In a given five-day week, how often would you say
12 you don't get a meal break; meaning, relief doesn't come?

13 A. Not often.

14 Q. How often in a month, would you say?

15 A. Maybe two, three times a month.

16 Q. In those two or three times a month, could you
17 put in a no-meal slip?

18 A. Yes.

19 Q. If there's an alarm while you're on your meal
20 break, you respond to the alarm, right?

21 A. Absolutely.

22 Q. How often in a given week or month would you say
23 that occurs where you respond to an alarm while you're on
24 your meal break?

25 A. In Manhattan?

N. GERSHONOWITZ

1 Q. Then after you return the OC, I think you said
2 you took the elevator back up to walk across?

3 A. Walk across and then head towards the locker
4 room.

5 Q. When in this process do you sign out?

6 A. On my way out.

7 Q. After you've changed out of your uniform?

8 A. Yes. That's easiest.

9 Q. How long does it take to change out of your
10 uniform?

11 A. Probably, like, maybe between five and ten
12 minutes because you want to prepare everything so you're
13 ready for the next day, so you can go through the same
14 process again.

15 Q. When you sign out, kind of like the same question
16 I had before. Do you sign out --

17 A. 1531.

18 Q. Sorry. Just let me finish.

19 A. I'm sorry.

20 Q. It's okay. Do you sign out the actual time or
21 the time your tour is scheduled to end?

22 A. The time my tour is scheduled to end.

23 Q. Using that once or twice a month when you don't
24 leave your post until about 4:00, on a day like that, would
25 you put in an overtime slip?

N. GERSHONOWITZ

1 A. No.

2 Q. Why not?

3 A. I put in an overtime slip and the officer that's
4 relieving me would have to get a late slip, and that's not
5 conducive to morale and a good working relationship,
6 because you go from being a nice guy to being a damn snitch
7 or a rat or whatever terminology you want to use.

8 Q. Did you ever have a relieving officer ask you not
9 to put in an overtime?

10 A. Oh, sure.

11 Q. Does that happen often?

12 A. I guess.

13 Q. In your time at MDC, have you ever put in an
14 overtime slip?

15 A. When I worked overtime full tours, but like
16 minutes, never.

17 Q. At MDC, you've only put in overtime slips for
18 when you've worked a double tour?

19 A. Or an hour. Like an hour, you know. I might
20 have if it's an hour. There's a magic hour. When you hit
21 that hour, you should be paid for it, because then it goes
22 from "things happen" to "plain old you don't care" about
23 the next person.

24 Q. Again, just looking at your time at MDC, how
25 often have you put in an overtime slip for an hour?

N. GERSHONOWITZ

1 A. Maybe three, four times. I'm not an overtime
2 person.

3 Q. I might have asked you this. Since you've been
4 an MDC, you've never put in overtime slip for less than an
5 hour?

6 A. Right, unless it was the "forty-minute no-meal."
7 But you don't get paid for that. That's compensatory time.

8 Q. You get that in comp time?

9 A. That you can never take. But that's another
10 story.

11 Q. Has anybody ever told you not to put in an
12 overtime slip for, let's say, less than "X" amount of
13 minutes?

14 A. Nobody's ever -- like, no boss. No supervisor or
15 boss has ever physically told you, but you don't want to
16 screw your fellow officer, you know. Things happen, so you
17 take that.

18 Q. Have you ever turned in an overtime slip that
19 ultimately wasn't approved?

20 A. When I first came on the job, I didn't know no
21 better.

22 Q. What do you mean?

23 A. You'd put in a fifteen-minute overtime slip
24 thinking that's the way it is in the real world; you get
25 paid for every minute. You just never saw it.

N. GERSHONOWITZ

1 relieve you, he was starting a double tour, so that was
2 going to be his second tour of the day.

3 A. Right.

4 Q. Would that make a difference as to whether or not
5 you put in an overtime slip, let's say he got there to
6 relieve you at midnight?

7 A. No. It's just -- it's a thing you just don't do.

8 Q. Would you work overtime at AMKC, and by
9 "overtime" I mean doubles?

10 A. They would have to stick me at the gate.

11 Q. How often would you say you would work a double
12 at AMKC?

13 A. Not often.

14 Q. Would it be less than once a month?

15 A. Oh, yeah.

16 Q. Maybe just a couple times a year?

17 A. Yeah, I would cry often.

18 Q. Was your practice the same at AMKC, where you
19 would put in an overtime slip if you worked an hour or
20 more?

21 A. Yes.

22 Q. How often would you say in a given month would
23 you put in an overtime slip?

24 A. For an hour?

25 Q. Yes.

EXHIBIT T

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----X
4 ERIC EDWARDS, Individually and On
5 Behalf of All Other Persons Similarly
6 Situated,
7
8 PLAINTIFF,

9
10 -against- Case No.:
11 08-CV-03134

12 THE DEPARTMENT OF CORRECTIONS OF THE CITY OF
13 NEW YORK and THE CITY OF NEW YORK,
14
15 DEFENDANTS.
16 -----X

17 DATE: February 23, 2011

18 TIME: 10:11 a.m.

19 DEPOSITION of the Plaintiff,
20 PHILIP KINARD, taken by the Defendants, pursuant
21 to a Notice and to the Federal Rules of Civil
22 Procedure, held at the offices of the New York
23 City Law Department, 100 Church Street, New York,
24 New York 10007, before EPHRAIM JACOBSON, a Notary
25 Public of the State of New York.

P. KINARD

1 to clear that to come through and go into the facility and
2 go downstairs to the locker. Then I, you know, open up my
3 locker and start, you know, getting dressed -- start
4 getting dressed for my tour.

5 Q. When you get into the facility you said you go
6 through the magnetometer, and how long does it usually take
7 you to get through the magnetometer?

8 A. Like a typical day, maybe about a minute,
9 depending on what you got coming in. You may have brought
10 some new clothes with you, so -- they make you -- if you
11 got metal on you, take all the metal off.

12 Q. Did you usually bring a uniform with you every
13 day, or did you keep some in your locker?

14 A. Well -- I would -- I would have -- I would bring
15 in stuff for, like, the week. Then, at the end of the week
16 I take the dirty stuff back so, you know, to get it cleaned
17 and then you bring the -- you know, bring the new uniform
18 to keep for the week. You can only bring so much for the
19 locker because it's small, so it's not like it can hold a
20 lot of stuff.

21 Q. Did you ever come to work in any part of your
22 uniform already on?

23 A. No. I don't like to wear my uniform going to
24 work.

25 Q. Why is that?

P. KINARD

1 A. You know, for my safety you know, because I'm
2 already six-nine, and I got a correction uniform on it's
3 like, yeah, that's that dude, yeah; so no, that's not cool.

4 Q. Have you ever been recognized outside of the
5 facility by a former inmate?

6 A. Yes, I have, actually, yeah.

7 Q. What happened then?

8 A. Well, I had -- actually, I had my two sons with
9 me. They were little boys and I was on the train, and I
10 seen this gigantic inmate that he had looked at me and I
11 looked at him, and he said, "Hey, how you doing?" You
12 know, a bunch of guys, and I'm like, "I'm all right." You
13 know, I got my two boys on my lap. They're sleeping and
14 I'm like, "Yeah, I'm fine." So that was like -- that was
15 like a little hectic, you know.

16 Q. Did anybody ever tell you maybe going back to
17 training, don't wear any part of your uniform outside the
18 facility?

19 A. I think they -- I think they might have mentioned
20 that. They said, you know, to get fully dressed, don't,
21 you know, because that's not -- you're going to be
22 recognized, and I had some instructors tell me, "Man, you
23 ain't hard to miss. You need to make sure you be as
24 inconspicuous as possible." So I never did that.

25 Q. After you cleared the magnetometer, you said that

P. KINARD

1 you would go down to the locker room?

2 A. Down to the locker ream.

3 Q. Before that, was there a sign-in and sign-out
4 sheet at VCBC?

5 A. Yes, yes.

6 Q. Where was that located?

7 A. That was located like adjacent to the stairway
8 going down to the locker room.

9 Q. It would be after you got to the magnetometer,
10 before you got to the locker?

11 A. Well, actually -- - yes, it would.

12 Q. Is that correct? I don't want to --

13 A. Yes, I'll say that.

14 Q. Let me ask you this. Would you sign in before
15 you went down to the locker room?

16 A. No, I wouldn't. I would want to get fully
17 dressed first.

18 Q. When you would come in, you would clear the
19 magnetometer and go right down to the locker room?

20 A. Yes.

21 Q. Could you describe to me what the uniform
22 consists of?

23 A. You have your -- you have your class A shirt.

24 You have your vest. You have your class A pants, black

25 socks, and regulation shoes. You got your belt that you

P. KINARD

1 they were tired and they would put in two hours -- put in
2 two hours' time due, so that they can -- so that they would
3 come in instead of 11, they would come in at 1. So, you
4 got to cover that person for that two hours. Sometimes, we
5 get one of those.

6 Q. That's -- I guess, if somebody works a double and
7 they then wanted to use two hours --

8 A. Right, because they just decided they did three
9 doubles this week and they're tired and they wanted to get
10 a couple hours extra sleep, so instead of coming in at 11,
11 they'll come at 1.

12 Q. Let's say for whatever reason your relief was
13 late coming to your post, or let's say they didn't get
14 there until 11:30, so you weren't getting off your post
15 until let's just say midnight, would you put in an overtime
16 slip for that half-hour?

17 A. That was discouraged because they would -- the
18 slip that I give you, if you put in an overtime slip, I got
19 to give this guy a late slip and nine out of ten, that guy
20 was your buddy. You didn't want him to get a late slip.
21 You would eat that half-hour. It was kind of pressure
22 that -- "Okay, all right, I'll eat that half hour."

23 Q. Did this ever happen to you or did you ever hear
24 of this happening where an incoming officer would call you
25 and say that they were going to be late and ask that you

P. KINARD

1 don't put in an overtime slip?

2 A. You're good.

3 Q. Like, I'll buy you lunch if you don't put in
4 overtime slip?

5 A. Yeah, I've gotten a couple calls. I got a couple
6 calls.

7 Q. You'd agree and say you would?

8 A. Yes.

9 Q. Have you ever put in a slip for, let's say half
10 an hour?

11 A. Yes, I have. I put in a slip.

12 Q. Were you paid for that time?

13 A. Yes, most of the time.

14 Q. Let me ask you this. What's the minimum amount
15 of time you've ever put in an overtime slip for?

16 A. Fifteen minutes.

17 Q. When was that?

18 A. It was a while ago. It was a long time ago.

19 Q. More than ten years ago?

20 A. Yeah.

21 Q. Was that approved?

22 A. I really don't remember. I really don't remember
23 that.

24 Q. Do you remember the last time before you retired
25 you put in an overtime slip for something less than an

EXHIBIT U

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 ERIC EDWARDS, Individually, and on Behalf of
5 All Other Persons Similarly Situated,

PLAINTIFFS,

6 -against-

Case No.:
08cv3134
(DLC) (GWG)

7 THE CITY OF NEW YORK,

8 DEFENDANT.

9 -----X

10

11 DATE: February 9, 2011

12 TIME: 2:15 p.m.

13

14 DEPOSITION of the Plaintiff , JULIO CONTRERAS, taken
15 by the Respective Parties, pursuant to a Court Order and to
16 the Federal Rules of Civil Procedure, held at the office of
17 the Special Federal Litigation Unit, New York City Law
18 Department, 100 Church Street, New York, New York 10007,
19 before Susan Pines, a Notary Public of the State of New
20 York.

21

22

23

24

25

J. CONTRERAS

1 week?

2 A. Yes.

3 Q. What were the hours of the training?

4 A. The hours of the training, I had an early
5 tour, seven to three, most of the time.

6 Q. When I say "training," are you
7 understanding training and the time you spent at the
8 academy, is that the same thing, training and
9 academy?

10 A. Yes.

11 Q. So now, starting in late September, early
12 October, when you actually started reporting for
13 tours at OBCC, what was your tour?

14 A. I was on the wheel, it's a rotating tour.

15 Q. Did you have regular days off?

16 A. No, they're also on rotation.

17 Q. You would work four days and then be off
18 two days?

19 A. Yes, ma'am.

20 Q. And from late September, early October
21 2006, to January of 2007, were you assigned to OBCC
22 that entire time?

23 A. Yes.

24 Q. Were you on the wheel that whole time as
25 well?

J. CONTRERAS

1 changes. Somewhere in the lobby.

2 Q. Before you went to the locker room?

3 A. Yes.

4 Q. When you would arrive and sign in, would
5 you sign in whatever time your particular tour was
6 starting, or would you sign in the actual time that
7 you were arriving?

8 A. I don't recall.

9 Q. Do you recall anyone ever telling you to
10 only sign in your tour start time and not to use the
11 actual time you arrived?

12 A. I don't recall.

13 Q. So after you cleared the metal detector
14 and signed in, then you would head to the locker
15 room?

16 A. Yes.

17 Q. What would you do when you got to the
18 locker room?

19 A. Depending on the timeline, try to squeeze
20 into a spot, or sometimes have to wait until the
21 crowd clears out to squeeze into my locker.

22 Q. And how many people were on the, or how
23 many correction officers were on the 7:00 to 3:31
24 tour?

25 A. A lot.

J. CONTRERAS

1 7:31, correct?

2 A. Yes.

3 Q. For the night tour, you said there's about
4 50 correction officers?

5 A. Fifty or more, I don't exactly recall the
6 number, it fluctuates.

7 Q. What about on the midnight tour?

8 A. Once again it fluctuates.

9 Q. You said when the locker room would be
10 crowded you'd have to wait to get to your locker?

11 A. Yes, ma'am.

12 Q. About how long would you have to wait?

13 A. Ten minutes.

14 Q. And so once you got to your locker, what
15 would you do?

16 A. Open it and change.

17 Q. Can you describe to me what your uniform
18 was?

19 A. The blue shirt, pants, the stab vest, or
20 bulletproof vest -- both at times -- your belt or
21 your belts, and jacket, if required, boots and
22 whatever equipment, your handcuffs, whatever
23 equipment you require on your belt.

24 Q. By your belt, you mean a utility belt?

25 A. Utility belt.

J. CONTRERAS

1 jacket?

2 A. Thirty seconds.

3 Q. Now once you're all dressed, let me ask
4 you, did you bring a uniform every day with you, or
5 did you leave some in your locker?

6 A. It depended. Sometimes I left it in the
7 locker, sometimes I brought it with me in a bag.

8 Q. Once you were done with getting dressed,
9 what would you do next?

10 A. Go downstairs for roll call. Wait for
11 roll call downstairs.

12 Q. What time was roll call, and again, let's
13 assume we were on the 7:00 to 3:31 tour?

14 A. You had to be there on time. It started
15 whenever they came, whoever had to speak or
16 whatever, that varies every day. The warden wants
17 to speak sometimes, a chief wants to talk sometimes,
18 whatever issues went on through the day, it's a
19 living, breathing thing in there, it changes every
20 day. Were there any riots, any altercations,
21 depending on where you're going.

22 Q. Would roll call always start at the time
23 your tour was scheduled to start?

24 A. No.

25 Q. So let's say you're working the 7:00 to

J. CONTRERAS

1 respond to an alarm?

2 A. Basically, depending on your day, you get
3 up and run. Drop whatever you're doing and run to
4 it.

5 Q. Was there a particular area that you would
6 report to?

7 A. You congregate in a certain area, and
8 sometimes, some officers will call it suiting up,
9 you're going to put this outfit on.

10 Q. How often would you say that you responded
11 to an alarm while you were on a meal break?

12 A. Out of a four-day period, easily twice.

13 Q. If there was an alarm while you were on
14 your post, would you stay at your post, or would you
15 respond to it?

16 A. You have to cover your post. The only
17 time you make a move is if you're the one calling in
18 the alarm.

19 Q. And just going back to your uniform, did
20 you ever wear, did you ever arrive to the facility
21 in any part of your uniform?

22 A. No.

23 Q. Why not?

24 A. Because it's dangerous. You never wore
25 your uniform in the street, you're a target. Maybe

J. CONTRERAS

1 someone recognizes you, or something. Besides that,
2 it's identifiable as a police officer, which you
3 aren't on the street.

4 Q. Were you ever recognized by an inmate on
5 the street?

6 A. I wasn't wearing my uniform, but I was
7 recognized.

8 Q. What happened in that instance?

9 A. I just went on my way.

10 Q. Did the person say something to you?

11 A. They sang a song from Rikers Island.

12 Q. I'm sorry, they sang a song?

13 A. Yes. That's their way of telling me they
14 knew who I was. It was a large crowd of people. I
15 just got into my car and took off.

16 Q. I see that you're wearing a necklace,
17 that's a replica, I'm assuming, of your FDNY badge?

18 A. No. This is from my soon-to-be ex-wife.
19 When I graduated from the corrections academy.

20 Q. So that's a replica of a correction badge?

21 A. Yes.

22 Q. Do you wear that regularly?

23 A. Sometimes.

24 Q. Do you wear that out on the street?

25 A. It's -- I have the same badge with my job

J. CONTRERAS

1 sure, but I think you put in when the tour was
2 supposed to end.

3 Q. So you would put 3:31?

4 A. Yes, whatever time you were supposed to.

5 Q. If your tour, again using the day tour as
6 an example, was scheduled to end at 3:31, and let's
7 say you were leaving at 3:55, would you put in an
8 overtime slip for that 25 minutes, let's say?

9 A. No.

10 Q. Why not?

11 A. It's like an unwritten rule that you don't
12 do that.

13 Q. When did you first hear of that unwritten
14 rule?

15 A. Once you start working there. That's
16 father [sic] down, like a known rule, like a father
17 down, like when a father teaches a son.

18 Q. What would be the minimum amount of time
19 you put an overtime slip in for?

20 A. I believe I put one in once for 45
21 minutes, because the person relieving me kept coming
22 extra late.

23 Q. Did you ever put in an overtime slip in
24 for something less than 45 minutes?

25 A. No, I don't recall. I may have put in one

J. CONTRERAS

1 occasions?

2 A. No. The only time that I remember is when
3 I had that use of force, 15 minutes before leaving.
4 I had to put in, once all the paperwork got cleared
5 up, I had to put in for a large amount of overtime.
6 The other times I don't recall.

7 Q. Did you ever work a double tour during
8 your time at DOC?

9 A. No. That was given to senior people,
10 mainly.

11 Q. For those three or four times you turned
12 in an overtime slip were you paid for that overtime?

13 A. Only the time where I worked, I had to
14 stay doing a whole bunch of reports for a couple of
15 hours, that I recall.

16 Q. Why do you believe that you weren't paid
17 for the other times?

18 A. It was no big difference on my check,
19 whatever it was. I didn't notice a difference.

20 Q. Did you keep track of when you would turn
21 in the overtime slips?

22 A. When I was there, I used to.

23 Q. So did you ask anyone if you had gotten
24 paid for the time that you put the overtime slips in
25 for?